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SALUS POPULI SUPREMA LEX ESTO

“The welfare of the people shall be the supreme law.”



JOHN R. ASHCROFT
SECRETARY OF STATE

MISSOURI REGISTER

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February 3, 2020 February 18, 2020	March 2, 2020 March 16, 2020	March 31, 2020 March 31, 2020	April 30, 2020 April 30, 2020
March 2, 2020 March 16, 2020	April 1, 2020 April 15, 2020	April 30, 2020 April 30, 2020	May 30, 2020 May 30, 2020
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August 3, 2020 August 17, 2020	September 1, 2020 September 15, 2020	September 30, 2020 September 30, 2020	October 30, 2020 October 30, 2020

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at sos.mo.gov/adrules/pubsched.

HOW TO CITE RULES AND RSMO

RULES

The rules are codified in the *Code of State Regulations* in this system–

Title		Division	Chapter	Rule
3	CSR	10-	4	.115
Department	<i>Code of State Regulations</i>	Agency Division	General area regulated	Specific area regulated

and should be cited in this manner: 3 CSR 10-4.115.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraphs 1., subparagraphs A., parts (I), subparts (a), items I. and subitems a.

The rule is properly cited by using the full citation, for example, 3 CSR 10-4.115 NOT Rule 10-4.115.

Citations of RSMo are to the *Missouri Revised Statutes* as of the date indicated.

Code and Register on the Internet

The *Code of State Regulations* and *Missouri Register* are available on the Internet.

The *Code* address is sos.mo.gov/adrules/csr/csr

The *Register* address is sos.mo.gov/adrules/moreg/moreg

These websites contain rulemakings and regulations as they appear in the *Code* and *Registers*.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) business days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 30—Division of Financial and Administrative
Services
Chapter 4—General Administration**

EMERGENCY RULE

**5 CSR 30-4.050 Local School District Application for Exemption
Under the School Start Date Law**

PURPOSE: This emergency rule sets out the process for local school districts to apply for an exemption under section 171.031, RSMo, regarding the school start date for the 2020-2021 school year. It also sets forth the criteria that must be met.

EMERGENCY STATEMENT: This emergency rule is necessary due to the novel COVID-19 pandemic and school districts' need for flexibility in their methods to address their students' educational needs. The State Board of Education (board) voted on May 12, 2020, to grant an exemption to the school start date under its authority under section 171.031.6, RSMo. The board also granted the Commissioner of Education the ability to grant these exemptions to expedite and streamline the approval process. This applies only for the 2020-2021 school year to local school districts that meet certain criteria. Because COVID-19 has caused a disruption in the provision of educational services during the 2019-2020 school year, this emergency rule is necessary to protect the health, safety, and welfare of those

students by ensuring that there will be regulations in place that provide school districts with notice of the criteria set forth by the board on May 12, 2020. As a result, the board finds a compelling governmental interest, which requires this emergency action. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The board believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed on May 12, 2020, becomes effective May 27, 2020, and expires August 24, 2020.

(1) Any local school district that wishes to apply to the board for a waiver to section 171.031, which will be valid for the 2020-2021 school year, must provide the following information to the Department of Elementary and Secondary Education via online submission:

(A) How the local school district garnered local input before submitting the exemption, which must include, but is not limited to, a public hearing;

(B) How the exemption will benefit the local school district's students and their learning; and

(C) How the exemption will minimize the transmission of COVID-19.

AUTHORITY: section 161.092, RSMo 2016, and section 171.031, RSMo Supp. 2019. Emergency rule filed May 12, 2020, effective May 27, 2020, expires Aug. 24, 2020.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 90—Missouri 911 Service Board
Chapter 1—Board Operations**

EMERGENCY RULE

11 CSR 90-1.010 Overview

PURPOSE: This rule provides a brief overview of the board.

EMERGENCY STATEMENT: This emergency rule informs the public of the board's purpose and duties regarding 911 services. This rule is necessary to comply with sections 650.325 to 650.335, RSMo and sections 190.400 to 190.460, RSMo which charge the board with taking immediate steps toward improving access to 911 emergency services to protect Missouri residents in emergency situations, particularly in underserved areas of the state. The board is required to set percentage rates of the prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund to reimburse 911 services authority for costs incurred to implement and operate Missouri 911 systems and for answering and dispatching emergency calls. The board also is required to establish and administer a grant and loan program to provide financing from the Missouri 911 service trust fund for costs of implementing 911 communications service projects. It is necessary to promulgate rules establishing the board's purpose and duties. Without such rules, the board will be unable to effectively discharge its duties and protect Missouri residents by immediately taking steps that will improve access to 911 emergency services, particularly those in underserved areas of the state. As a

result, the board finds a compelling governmental interest in promoting the health and safety of Missouri residents in emergency situations, requiring this emergency action. A proposed rule covering the same material is published in this issue of the **Missouri Register**. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The board believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed May 6, 2020, becomes effective May 21, 2020, and expires February 25, 2021.

(1) The Missouri 911 Service Board represents all Missouri 911 entities and jurisdictions, and is striving toward the immediate access to emergency services for all citizens in the state of Missouri. The board is charged with assisting and advising the state regarding 911 services; aiding in the collection and dissemination of information relating to use of a universal emergency telephone number; reviewing existing and proposed legislation and recommending changes; recommending primary and secondary answering points on technical and operational standards for 911 services; recommending model systems to be considered in preparing a 911 service plan; providing requested mediation services to political subdivisions involved in 911 jurisdictional disputes; applying for and receiving grants; conducting an annual survey of public answering points in Missouri to evaluate potential for improved services, coordination, and feasibility of consolidation; developing a plan and timeline of target dates for the testing, implementation, and operation of a next generation 911 system throughout Missouri, administering and authorizing grants and loans from the Missouri 911 service trust fund to improve 911 services, especially in the most underserved areas; and setting the percentage rate of the prepaid wireless emergency telephone service charge remitted to a county or city under section 190.406.3(5), RSMo to reimburse expenditures for implementing and operating 911 systems and for answering and dispatching emergency calls.

(2) The board is funded by prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund pursuant to section 190.460, RSMo.

AUTHORITY: section 650.325, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. A proposed rule covering this same material is published in this issue of the **Missouri Register**.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions and other public entities more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will cost private entities less than five hundred dollars (\$500) in the time the emergency is effective.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 90—Missouri 911 Service Board
Chapter 1—Board Operations**

EMERGENCY RULE

11 CSR 90-1.020 Organization and Administration

PURPOSE: This rule describes the organization and administration of the board, and is necessary to comply with the requirements of section 536.023, RSMo.

EMERGENCY STATEMENT: This emergency rule establishes the board's organization and administration. This rule is necessary to comply with sections 536.023, RSMo, 650.325 to 650.335, RSMo and sections 190.400 to 190.460, RSMo which charge the board with

taking immediate steps toward improving access to 911 emergency services to protect Missouri residents in emergency situations, particularly in underserved areas of the state. The board is required to set percentage rates of the prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund to reimburse 911 services authority for costs incurred to implement and operate Missouri 911 systems and for answering and dispatching emergency calls. The board also is required to establish and administer a grant and loan program to provide financing from the Missouri 911 service trust fund to fund costs of implementing 911 communications service projects. It is necessary to promulgate rules establishing the board's organization and administration. Without such rules, the board will be unable to effectively discharge its duties and protect Missouri residents by immediately taking steps that will improve access to 911 emergency services, particularly those in underserved areas of the state. As a result, the board finds a compelling governmental interest in promoting the health and safety of Missouri residents in emergency situations, requiring this emergency action. A proposed rule covering the same material is published in this issue of the **Missouri Register**. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The board believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed May 6, 2020, becomes effective May 21, 2020, and expires February 25, 2021.

(1) The executive director of board shall be the chief public spokesperson for the board in all dealings with the media.

(2) The executive director shall be responsible for the daily operation of the board's business as delegated by the board; provided, however, that any party aggrieved by any action of the director, by petition to the chairman, may request that action be reviewed as an agenda item in a board meeting.

(3) The executive director shall have the power to appoint, fire and discipline board employees and consultants as delegated by the board.

(4) The executive director, the executive director's designee or such other individual as may be designated by the board shall serve as the board's custodian of records. The board's custodian of records shall maintain the board's records as required by law.

(5) Except as otherwise provided in the board's regulations, by statute or directed by the board, all materials to be submitted with the board or requests for information or documents shall be sent by mail to: Missouri 911 Service Board, P.O. Box 2126, Jefferson City, MO 65102, or by electronic mail to: admin@missouri911.org.

AUTHORITY: section 536.023, RSMo 2016. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. A proposed rule covering this same material is published in this issue of the **Missouri Register**.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions and other public entities more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will cost private entities less than five hundred dollars (\$500) in the time the emergency is effective.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 90—Missouri 911 Service Board
Chapter 1—Board Operations**

EMERGENCY RULE

11 CSR 90-1.030 Code of Ethics

PURPOSE: *The board is charged with assisting and advising the state in ensuring the availability, implementation and enhancement of a statewide emergency telephone number common to all jurisdictions. The board and its staff are held to the highest ethical and professional standards and must conduct all business in a manner which maintains the public trust. Therefore, the following Code of Ethics prescribes measures to prohibit practices that possess a potential of wrong-doing or the appearance of impropriety.*

EMERGENCY STATEMENT: *This emergency rule informs the public of the standards the board must follow in discharging its duties regarding 911 services. This rule is necessary to comply with sections 650.325 to 650.335, RSMo and sections 190.400 to 190.460, RSMo which charge the board with taking immediate steps toward improving access to 911 emergency services to protect Missouri residents in emergency situations, particularly in underserved areas of the state. The board is required to set percentage rates of the prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund to reimburse 911 services authority for costs incurred to implement and operate Missouri 911 systems and for answering and dispatching emergency calls. The board also is required to establish and administer a grant and loan program to provide financing from the Missouri 911 service trust fund to costs of implementing 911 communications service projects. It is necessary to promulgate rules establishing the standards the board must follow in discharging its duties regarding 911 services. Without such rules, the board will be unable to effectively discharge its duties and protect Missouri residents by immediately taking steps that will improve access to 911 emergency services, particularly those in underserved areas of the state. As a result, the board finds a compelling governmental interest in promoting the health and safety of Missouri residents in emergency situations, requiring this emergency action. A proposed rule covering the same material is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The board believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed May 6, 2020, becomes effective May 21, 2020, and expires February 25, 2021.*

(1) **Standard of Compliance for Board and its Staff.** Each member of the board and all board staff are directed to read and comply with this Code of Ethics and with Executive Order 92-04 dated January 31, 1992. For the purposes of this Code of Ethics, the term staff shall include the board's executive director, staff, and state employees who provide day-to-day services to the board. The board shall be responsible for the enforcement of applicable statutes, the provisions of the Executive Order, and this rule by the suspension or discharge, other disciplinary action, or other action as the board deems appropriate.

(2) **Compensation.** No member or staff of the board shall solicit anything of value, nor shall any member or staff of the commission accept anything of value, in addition to that compensation received from the board or Missouri in their official capacity, intended to influence the member or staff's official duties or in exchange for having exercised the member's or staff's official powers or performed the member's or staff's official duties in a particular manner. For the purposes of this rule, grant or payment of a thing of value to another person on behalf of the member or staff shall be considered grant or payment to the member or staff. Nothing in this rule shall preclude the acceptance of any award, presentation, honor or memorabilia presented to the member or staff of the board in recognition of his/her performance in his/her official capacity and not designed to influence any particular action taken by the member or staff of the board.

(3) **Confidentiality.** No information furnished to the board by a corporation, organization, or person that the board deems to be a closed

record under Chapter 610, RSMo, shall be open to public inspection or made public except on order of the board.

(4) **Confidential Information.** No member or staff of the board shall use or disclose confidential information gained in the member's or staff's official position or activities to further the member's or staff's own financial or political interests or the financial or political interests of anyone else.

(5) **Confidential Information.** A former member or staff of the commission having information that s/he knows is confidential governmental information or knew was confidential governmental information at the time the member or staff acquired the information about a person or matter subject to the jurisdiction of the board while the member or staff was associated with the board, may not disclose such information without the consent of the board granted before such disclosure and after complete disclosure to the board of the information sought to be disclosed, all persons to whom the information is to be disclosed, and the reasons for such disclosure. Confidential information means information that has been obtained under governmental authority and which, at the time this rule is applied, the government or the board is prohibited by law from disclosing to the public or has a legal privilege not to disclose, and which is not otherwise available to the public.

AUTHORITY: *section 650.325, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. A proposed rule covering this same material is published in this issue of the Missouri Register.*

PUBLIC COST: *This emergency rule will cost state agencies or political subdivisions and other public entities less than five hundred dollars (\$500) in the time the emergency is effective.*

PRIVATE COST: *This emergency rule will cost private entities less than five hundred dollars (\$500) in the time the emergency is effective.*

Title 11—DEPARTMENT OF PUBLIC SAFETY

Division 90—Missouri 911 Service Board

Chapter 1—Board Operations

EMERGENCY RULE

11 CSR 90-1.040 Board Meetings

PURPOSE: *This rule establishes the procedures for meetings of the board.*

EMERGENCY STATEMENT: *This emergency rule informs the public of the board's procedures for meetings. This rule is necessary to comply with sections 650.325 to 650.335, RSMo and sections 190.400 to 190.460, RSMo which charge the board with taking immediate steps toward improving access to 911 emergency services to protect Missouri residents in emergency situations, particularly in underserved areas of the state. The board is required to set percentage rates of the prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund to reimburse 911 services authority for costs incurred to implement and operate Missouri 911 systems and for answering and dispatching emergency calls. The board also is required to establish and administer a grant and loan program to provide financing from the Missouri 911 service trust fund to county 911 services authorities for costs incurred in implementing 911 communications service projects. It is necessary to promulgate rules establishing the board's procedures for meetings. Without such rules, the board will be unable to effectively discharge its duties and protect Missouri residents by immediately taking steps that will improve access to 911 emergency services, particularly those in*

underserved areas of the state. As a result, the board finds a compelling governmental interest in promoting the health and safety of Missouri residents in emergency situations, requiring this emergency action. A proposed rule covering the same material is published in this issue of the **Missouri Register**. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The board believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed May 6, 2020, becomes effective May 21, 2020, and expires February 25, 2021.

(1) The chair or the chair's designee shall preside over each meeting of the board. The board shall elect officers from its membership as it determines, including a chair, vice-chair, secretary and treasurer and form committees as it deems appropriate to handle designated functions of the board.

(2) Minutes of each meeting, open or closed, including special meetings, shall be prepared in written form and shall be subject to the approval of the board.

(3) The board may vote to delegate to its chair limited authority to take certain actions without a prior vote of the board. Any action taken by the chair pursuant to such delegation of authority shall have the full force and effect of a majority vote of the board, but must be ratified by a subsequent majority vote of the board at the next public meeting. If such action is not ratified by the board as provided herein, such action shall be cancelled, withdrawn or rescinded as of the date of the public board meeting at which the ratification failed. Such delegation of board authority to the chair shall expire twelve (12) months after its adoption by a majority of the board, unless rescinded or renewed by the board prior to its expiration.

AUTHORITY: section 650.325, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. A proposed rule covering this same material is published in this issue of the **Missouri Register**.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions and other public entities more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will cost private entities less than five hundred dollars (\$500) in the time the emergency is effective.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 90—Missouri 911 Service Board
Chapter 1—Board Operations**

EMERGENCY RULE

11 CSR 90-1.050 Addressing Board

PURPOSE: This rule establishes procedures for the public to address the board.

EMERGENCY STATEMENT: This emergency rule informs the public of the board's procedures for the public to address it. This rule is necessary to comply with sections 650.325 to 650.335, RSMo and sections 190.400 to 190.460, RSMo which charge the board with taking immediate steps toward improving access to 911 emergency services to protect Missouri residents in emergency situations, particularly in underserved areas of the state. The board is required to set percentage rates of the prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund to reimburse 911 services authority for costs incurred to implement and operate

Missouri 911 systems and for answering and dispatching emergency calls. The board also is required to establish and administer a grant and loan program to provide financing from the Missouri 911 service trust fund for costs of implementing 911 communications service projects. It is necessary to promulgate rules establishing the board's procedure for the public to address it. Without such rules, the board will be unable to effectively discharge its duties and protect Missouri residents by immediately taking steps that will improve access to 911 emergency services, particularly those in underserved areas of the state. As a result, the board finds a compelling governmental interest in promoting the health and safety of Missouri residents in emergency situations, requiring this emergency action. A proposed rule covering the same material is published in this issue of the **Missouri Register**. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The board believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed May 6, 2020, becomes effective May 21, 2020, and expires February 25, 2021.

(1) The board will allot time for public comment at each open meeting. The board reserves the right to determine the amount of time allotted at each open meeting for public comment and to limit the amount of time per person for public comment.

(2) No person interested in a case, matter or application pending before the board shall improperly attempt to influence the judgment of the board by undertaking, directly or indirectly, to pressure or influence the board, regarding the case, matter or application.

AUTHORITY: section 650.325, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. A proposed rule covering this same material is published in this issue of the **Missouri Register**.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions and other public entities more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will cost private entities less than five hundred dollars (\$500) in the time the emergency is effective.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 90—Missouri 911 Service Board
Chapter 2—911 Financial Assistance Program**

EMERGENCY RULE

11 CSR 90-2.010 Definitions

PURPOSE: This rule establishes definitions for terms used in this chapter.

EMERGENCY STATEMENT: This emergency rule informs the public of the board's definitions for terms used in this chapter. This rule is necessary to comply with sections 650.325 to 650.335, RSMo and sections 190.400 to 190.460, RSMo which charge the board with taking immediate steps toward improving access to 911 emergency services to protect Missouri residents in emergency situations, particularly in underserved areas of the state. The board is required to set percentage rates of the prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund to reimburse 911 services authority for costs incurred to implement and operate Missouri 911 systems and for answering and dispatching emergency calls. The board also is required to establish and administer a grant and loan program to provide financing from the Missouri 911 service trust fund for costs of implementing 911 communications service projects. It is

necessary to promulgate rules establishing the board's definition for terms used in this chapter. Without such rules, the board will be unable to effectively discharge its duties and protect Missouri residents by immediately taking steps that will improve access to 911 emergency services, particularly those in underserved areas of the state. As a result, the board finds a compelling governmental interest in promoting the health and safety of Missouri residents in emergency situations, requiring this emergency action. A proposed rule covering the same material is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The board believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed May 6, 2020, becomes effective May 21, 2020, and expires February 25, 2021.

(1) As used in this chapter, the following terms shall mean:

(A) "911 services authority", any county or city governing body or elected emergency services board to which the board remits prepaid wireless emergency services telephone services charges deposited in the fund under section 190.460.3(5), RSMo;

(B) "911 service level", level of a Public Safety Answering Point's (PSAPs) 911 services. There are four levels:

1. Basic - No 911 equipment;
2. Enhanced - Wireline only;
3. Phase I - Wireless number only; and
4. Start Phase II - Latitude/Longitude, Text-to- 911;

(C) "Adverse action", an action taken by the board to deny, reject, reduce, suspend or terminate a grant or loan application, financial assistance under an approved application or project agreement, or request to materially amend a project agreement or extend the project completion date;

(D) "Application window", a period set by the board for the submission of applications for grants and loans available pursuant to § 650.335, RSMo;

(E) "Award priority areas", Attributes of loan or grant applications that warrant priority in allocating financial assistance from the fund due to the potential to most greatly improve 911 services statewide, especially in underserved areas, including the following:

1. Including one or more PSAPs located in a jurisdiction with a 911 service level of basic;
2. Consolidating two or more PSAPs;
3. Consolidating 911 services within a defined region of the state;
4. Moving one or more PSAPs up one or more 911 service levels;
5. Meeting the NENA i3 Solution Standard for Emergency Services IP Network;
6. Becoming NG9-1-1 compatible;
7. Purchasing 911 technology and equipment, such as 911 trunking equipment, workstations with 911 answering equipment, software, dispatch systems, and radio systems, that is currently non-existent and is not being used to replace existing equipment; and
8. Adding Text-to-911; defined as is the ability to send a text message to reach 911 emergency call takers from a mobile phone or device.

(F) "Board", the Missouri 911 service board defined in section 650.320, RSMo and established by section 650.325, RSMo;

(G) "Eligible applicants" or "Applicants", counties and cities that sections 650.330 and 655.335, RSMo authorize to submit applications to the board for grants and loans to finance all or a portion of the costs incurred by their 911 services authorities in implementing a 911 communications service project;

(H) "Eligible uses", expenditures that may be paid using financial assistance from the fund, including but not limited to capital expenses such as building, facility and equipment costs; operating expenses such as research, development and administrative costs; expenses associated with training; and matching funds for federal grants;

(I) "Fund", the Missouri 911 service trust fund established by section 190.420, RSMo;

(J) "Grant", a distribution from the fund that is not required to be repaid;

(K) "Incomplete application", an application received by the board that is not submitted in accordance with the application instructions, regulations, or statutes;

(L) "Loan", a distribution from the fund that must be repaid with interest;

(M) "NENA i3 Solution Standard", the NENA Detailed Functional and Interface Standard for the NENA i3 Solution, NENA-STA-010.2-2016 (originally 08-003), September 10, 2016, published by the National Emergency Number Association, 1700 Diagonal Rd., Suite 500, Alexandria, VA 22314 (www.nena.org) and available at http://www.nena.org/resource/resmgr/standards/NENA-STA-010.2_i3_Architectu.pdf and on the board's website. This standard is incorporated herein by reference and does not include any later amendments or additions;

(N) "Next Generation 911" or "NG9-1-1", a system comprised of managed IP-based networks, gateways, functional elements and databases that augment or replicate present day E9-1-1 features and functions and provide new capabilities. NG9-1-1 is designed to provide access to emergency services from all sources, and to provide multimedia data capabilities for PSAPs and other emergency service organizations;

(O) "Project Agreement", an agreement governing the board's award of a financial assistance for an 911 services authority's 911 communications service project; and

(P) "PSAPs", public safety answering points as defined in sections 190.400 and 650.320, RSMo.

(2) As used in this chapter, all terms defined in sections 650.320 and 190.400, RSMo shall have meaning prescribed therein.

AUTHORITY: sections 650.330 and 650.335, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. A proposed rule covering this same material is published in this issue of the Missouri Register.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions and other public entities more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will cost private entities less than five hundred dollars (\$500) in the time the emergency is effective.

Title 11—DEPARTMENT OF PUBLIC SAFETY

Division 90—Missouri 911 Service Board

Chapter 2—911 Financial Assistance Program

EMERGENCY RULE

11 CSR 90-2.020 Application Requirements and Submission Procedure

PURPOSE: This rule prescribes the content of and procedure for applying for financial assistance in the form of grants and loans from the Missouri 911 service trust fund, the proceeds of which are to be used to finance a portion of the costs incurred in implementing projects to improve 911 services.

EMERGENCY STATEMENT: This emergency rule informs the public of the board's contents and procedures for applying for financial assistance in the form of grants and loan from the Missouri 911 service trust fund. This rule is necessary to comply with sections 650.325 to 650.335, RSMo and sections 190.400 to 190.460, RSMo which charge the board with taking immediate steps toward improving

*access to 911 emergency services to protect Missouri residents in emergency situations, particularly in underserved areas of the state. The board is required to set percentage rates of the prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund to reimburse 911 services authority for costs incurred to implement and operate Missouri 911 systems and for answering and dispatching emergency calls. The board also is required to establish and administer a grant and loan program to provide financing from the Missouri 911 service trust fund for costs of implementing 911 communications service projects. It is necessary to promulgate rules establishing the board's definition for terms used in this chapter. Without such rules, the board will be unable to effectively discharge its duties and protect Missouri residents by immediately taking steps that will improve access to 911 emergency services, particularly those in underserved areas of the state. As a result, the board finds a compelling governmental interest in promoting the health and safety of Missouri residents in emergency situations, requiring this emergency action. A proposed rule covering the same material is published in this issue of the **Missouri Register**. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The board believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed May 6, 2020, becomes effective May 21, 2020, and expires February 25, 2021.*

(1) **Application Window.** All application windows shall be established by the board as it deems appropriate and be published on its website, <https://www.missouri911.org>. The board reserves the right to extend published application windows as it deems appropriate. For each application window, the board shall exercise its discretion to determine the total amount of financial assistance available from the fund, allocate the available amounts between grants and loans, establish any percent of match in local funds required for applications seeking grants, and determine the maximum amount of financial assistance available per application. The board will publish this information on its website before the start of each application window.

(2) **Application Submission Procedure.**

(A) **Deadline.** Applications for all application windows shall be submitted to the board by the deadline established and published by the board. Applications may be submitted by electronic mail or certified or registered mail. Electronic mail shall be sent to admin@missouri911.org and certified and registered mail shall be sent to "Missouri 911 Service Board" at P.O. Box 2126, Jefferson City 65102. The board presently lacks the ability to receive applications by hand delivery because it does not maintain a physical office. The board prefers to receive electronic copies of applications by electronic mail.

(B) **Format.** Applicants must provide one electronic version of their applications, including the accompanying documents.

(C) **Joint Applications.** Applications submitted by two or more eligible applicants must contain all information required for each applicant and its 911 services authority and a memorandum of understanding between all eligible applicants and their 911 services authorities. The board encourages joint applications.

(D) **Rejection Criteria.** The board will reject applications that are untimely. The board may extend the application deadline for up to 72 hours. Any extension will apply to all applications. The board will notify applicants and their 911 services authorities in writing regarding applications it deems incomplete and allow fourteen (14) calendar days for the submission of information necessary to complete such applications. The board may reject applications that remain incomplete for longer than fourteen (14) days after notice is sent.

(3) **General Requirements.**

(A) **Who may apply.** Applications may be submitted by eligible applicants singly, or in combination with one or more other eligible

applicants.

(B) **Signature and Certification.** All applications shall be prepared by the 911 services authority that will incur some or all the costs to implement the 911 communications service project in the application. All applications will be signed by an authorized representative of each applicant and an authorized member of its 911 services authority. By signing the application:

1. Applicants authorize the board to transmit directly to their 911 services authorities any portion of an award of financial assistance that is for costs to be incurred by their 911 services authorities in implementing approved projects;

2. Applicants and 911 services authorities certify that any financial assistance obtained from the fund will be expended only for purposes specified in the approved application or the project agreement.

3. 911 services authorities certify that they, on behalf of their eligible applicants, will repay any portion of a loan made that is transmitted directly to them by the board, with interest, and will annually budget an amount sufficient to make any payments required by the board under section 650.335, RSMo. Eligible applicants make the same certification with respect to any portion of a loan transmitted to them for costs to be incurred by them in implementing approved projects.

(C) **Funding Limits and Sources.** The maximum amount of grants, loans, or a combination of grants and loans that may be requested in a single application, as set by the board for each application window, shall be the same regardless of the number of eligible applicants included in an application.

(D) **Project Costs Disclosure.** Applications shall include all necessary costs, including those of any third party, required for the full implementation of the project. For all projects in which not all project costs will be incurred and paid by the applicants' 911 services authorities, the applications also shall identify all other sources that will incur or pay project costs, the specific project costs to be incurred or paid by each source, and the total project costs to be incurred or paid by each source.

(E) **Limit on Number of Applications.** The board reserves the right to limit the number of applications that may be submitted per applicant per application window. The limit applies to joint applications.

(F) **Project Completion Deadline.** Applications must demonstrate that the proposed project is able to be completed no later than one year after the board first remits any financial assistance from the fund for project implementation.

(G) **Grounds for Rejection or Disapproval.** The board may reject applications signed by applicants or 911 services authorities owing money to the fund under a loan agreement previously approved by the board or that have not yet completed a project that was previously approved by the board.

(4) **Application Contents.** Applications shall contain a Project Narrative and a Technical Assistance Report that includes a proposed budget.

(A) **Project Narrative Requirements.** The project narrative shall include the following information for all applicants and their 911 services authorities signing the application:

1. **Identifying and contact information.** The names, addresses, titles, locations addresses, telephone numbers, and email addresses of the eligible applicants' governing bodies and the 911 services authorities' primary contact individuals;

2. **Constituent information.** The number of constituents to be served by the entire project, the 911 services authorities' 911 levels as of the date of the application and upon project completion;

3. **Funding request information.** State a preference for a grant, loan or combination of the two, the total amount of financial assistance requested, and the amount of each type of financial assistance requested (only if both types are requested). The board reserves the right to extend an offer for either type of financial assistance or a combination

of the two regardless of the type of funding requested and to less than the requested amount;

4. **Funding Purpose.** Identify the statutory purposes for which the requested financial assistance will be used:

- A. Implementation of 911 services in counties of the state where services do not exist or to improve existing 911 systems;
- B. Promotion of consolidation of PSAPS, where appropriate;
- C. Mapping or addressing all county locations;
- D. Ensuring primary access and texting abilities to 911 services for disabled residents;
- E. Implementation of initial emergency medical dispatch services, including prearrival instructions in counties where those services are not offered as of the date the application is submitted; and
- F. Development and implementation of an emergency services internet protocol network that can be shared by all public safety agencies.

5. **Personnel information.** State the name and title of key personnel performing the project for which financial assistance is sought. For any vacant job positions, provide a job description instead of a name.

6. **Service description.** Provide a detailed description of the services to be provided for each purpose identified in 4 (A)-(F) of this rule for which financial assistance is requested. The description **must** include the following information:

- A. A summary of the activities to occur and the key personnel responsible for each activity;
- B. A description of how the application addresses one or more of the Award Priority Areas;
- C. A work plan and timeline that identifies activities, and proposed start and completion dates;
- D. A plan for the 911 services authorities to report progress and expenditures to the board. At a minimum, the plan must require the 911 services authorities to submit to the board progress and expenditure reports on a quarterly basis and a final project report and financial reconciliation no later than thirty (30) calendar days after project completion;
- E. A brief description of how the activities identified in the application will be sustained by the 911 services authorities beyond the completion date of the project.

(B) **Technical Assistance Report.** The technical assistance report shall contain:

- 1. A detailed budget and justification for the total cost of the funded project, including the following:
 - A. Capital expenses incurred by the 911 services authorities, the applicants, or any other source for the purchase of materials, equipment and supplies;
 - B. Operating expenses incurred by the 911 services authorities, the applicants, or any other source for personnel, administration, and operations;
 - C. Training expenses, incurred by the 911 services authorities, the applicants, or any other source for programs, facilities, travel, and trainers; and
 - D. Other direct costs incurred by the 911 services authorities, the applicants, or any other source for the funded project.

1. The suggested format for the budget is a spreadsheet that contains or is accompanied by notes describing how amounts of expenses incurred by the 911 services authorities, the applicants, or any other source align with the activity timeline in the narrative proposal;

2. Financial records and other documents demonstrating that the applicants, through their 911 services authorities or otherwise, have the ability to operate and maintain ongoing 911 services after project completion.

3. Written certification, such as a resolution, that the governing bodies of the applicants have approved the applicants entering into a project agreement with the board if the application is approved and a copy of the approvals. Applicants indicating that approval of their governing bodies is not required must submit proof acceptable

to the board.

4. For applications requesting a loan, financial records and other documents or information demonstrating that the applicants, through their 911 services authorities or otherwise, are providing at least a fifty percent (50%) match of the amount of loan sought and that the total project cost will be recovered during the loan repayment period.

5. For applications requesting a grant, financial records and other documents or information demonstrating that the applicants, through their 911 services authorities or otherwise, are providing at least the minimum percent (x%) match of the amount of grant sought as is required by the board for the application window.

AUTHORITY: sections 650.330 and 650.335, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. A proposed rule covering this same material is published in this issue of the Missouri Register.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions and other public entities more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will cost private entities less than five hundred dollars (\$500) in the time the emergency is effective.

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 90—Missouri 911 Service Board Chapter 2—911 Financial Assistance Program

EMERGENCY RULE

11 CSR 90-2.030 Application Review and Decision

PURPOSE: This rule establishes the process the board will use to review and make decisions regarding applications for financial assistance in the form of grants and loans from the Missouri 911 service trust fund.

EMERGENCY STATEMENT: This emergency rule informs the public of the board's process for reviewing and making decisions regarding applications for financial assistance in the form of grants and loans from the Missouri 911 service trust fund. This rule is necessary to comply with sections 650.325 to 650.335, RSMo and sections 190.400 to 190.460, RSMo which charge the board with taking immediate steps toward improving access to 911 emergency services to protect Missouri residents in emergency situations, particularly in underserved areas of the state. The board is required to set percentage rates of the prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund to reimburse 911 services authority for costs incurred to implement and operate Missouri 911 systems and for answering and dispatching emergency calls. The board also is required to establish and administer a grant and loan program to provide financing from the Missouri 911 service trust fund for costs of implementing 911 communications service projects. It is necessary to promulgate rules establishing the board's definition for terms used in this chapter. Without such rules, the board will be unable to effectively discharge its duties and protect Missouri residents by immediately taking steps that will improve access to 911 emergency services, particularly those in underserved areas of the state. As a result, the board finds a compelling governmental interest in promoting the health and safety of Missouri residents in emergency situations, requiring this emergency action. A proposed rule covering the same material is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The board believes this emergency rule is fair to all interested persons and parties under the

circumstances. This emergency rule was filed May 6, 2020, becomes effective May 21, 2020, and expires February 25, 2021.

(1) **Application Review.** The board, or its designated members or appointees will review all applications. Applications meeting the minimum requirements will be scored and ranked based on the scoring to aid the board in deciding which applications to approve, and the amount and type of financial assistance to award approved applicants. If more than one (1) application receives the same score, then the tied applications will be ranked in the order determined to best accomplish the purposes listed in section 650.330.1(16), RSMo.

(2) **Application Scoring**

(A) **Project Narrative.** The project narrative shall be scored as follows:

1. One (1) point shall be awarded for each portion required by 11 CSR 90-22.020 (4)(A)1, 2, 3, and 5 of this rule that is determined to contain adequate information.

2. One (1) point shall be awarded for each separate purpose listed in 11 CSR 902.020 (4)(A)(4)A-F that is determined to be adequately identified and described.

3. Points for portions of the project narrative required by 11 CSR 90-2.020 (4)(A)(6) of this rule shall be awarded as follows:

A. For the portion required by 11 CSR 90-2.020 (4)(A)(6)A, three (3) points if the application adequately describes specific, feasible activities and identifies parties responsible for completing the activities. Fewer than 3 points may be awarded for answers that are determined to be partially adequate.

B. For the portion required by 11 CSR 90-2.020 (4)(A)(6)B, one (1) point for including in the application one or more PSAPs located in a jurisdiction with a current 911 level of basic for up to five (5) points, one (1) point for consolidating a PSAPs for up to five (5) points, one (1) point for consolidating 911 services within a region, one (1) point for moving one or more PSAPs up one 911 service levels for up to five (5) points, and one (1) point for meeting the NENA i3 Solution Standard for Emergency Services IP Network.

C. For the portion required by 11 CSR 90-2.020 (4)(A)(6)C, one (1) point for providing a work plan and timeline that adequately identifies activities, and proposed start and completion dates.

D. For the portion required by 11 CSR 90-2.020 (4)(A)(6)D, one (1) point for providing an adequate plan for reporting progress and expenditures to the board.

E. For the portion required by 11 CSR 90-2.020 (4)(A)(6)E, one (1) point for adequately describing how the activities identified in the application will be sustained beyond the completion date of the funded project. One (1) additional point may be awarded if the application shows above average confidence of sustainability and a second additional point may be awarded if the application shows high confidence of sustainability.

(B) **Technical Assistance Report Scoring.** The technical assistance report required by 11 CSR 90-2.020(4)(B) shall be scored one (1) to three (3) points depending on the board's or its reviewer's determination as to the level of reasonableness and feasibility of the budget and the adequacy of the justification for the total project cost.

(3) **Application Decisions**

(A) The board will make all final decisions regarding applications. The board will strive to approve or disapprove applications within sixty (60) calendar days after the close of each application window, and decide the amount and type of financial assistance to award each approved applicant and transmit to its 911 services authority for project implementation.

(B) The board will disapprove all applications that it determines do not meet the minimum requirements.

(C) The board will make final decisions on applications meeting the minimum requirements on a case-by-case basis based on the board's determination, in its sole discretion, of which projects best promote the purposes of the fund set forth in section

650.330.4(16)(a)-(f). In situations where the board offers a loan when a grant was requested, the board reserves the right to request any additional documents or information needed to ascertain if the match requirement is met.

(D) The board or its designee will notify each applicant and its 911 services authority in writing of the board's decision regarding the application. If the board disapproves an application, the writing will advise of the protest procedure in 1 CSR 90-2.050.

AUTHORITY: sections 650.330 and 650.335, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. A proposed rule covering this same material is published in this issue of the Missouri Register.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions and other public entities more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will cost private entities less than five hundred dollars (\$500) in the time the emergency is effective.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 90—Missouri 911 Service Board
Chapter 2—911 Financial Assistance Program**

EMERGENCY RULE

11 CSR 90-2.040 Project Administration

PURPOSE: This rule establishes the process the board will use to administer approved 911 communications service projects.

EMERGENCY STATEMENT: This emergency rule informs the public of the board's process for administering approved 911 communications service projects. This rule is necessary to comply with sections 650.325 to 650.335, RSMo and sections 190.400 to 190.460, RSMo which charge the board with taking immediate steps toward improving access to 911 emergency services to protect Missouri residents in emergency situations, particularly in underserved areas of the state. The board is required to set percentage rates of the prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund to reimburse 911 services authority for costs incurred to implement and operate Missouri 911 systems and for answering and dispatching emergency calls. The board also is required to establish and administer a grant and loan program to provide financing from the Missouri 911 service trust fund for of implementing 911 communications service projects. It is necessary to promulgate rules establishing the board's definition for terms used in this chapter. Without such rules, the board will be unable to effectively discharge its duties and protect Missouri residents by immediately taking steps that will improve access to 911 emergency services, particularly those in underserved areas of the state. As a result, the board finds a compelling governmental interest in promoting the health and safety of Missouri residents in emergency situations, requiring this emergency action. A proposed rule covering the same material is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The board believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed May 6, 2020, becomes effective May 21, 2020, and expires February 25, 2021.

(1) **Project Agreements.** Approved applicants and their 911 services authorities must enter into project agreements with the board. The project agreements will contain the terms and conditions of the board's award of financial assistance. For projects involving a loan,

the project agreements will contain the interest rate, repayment amount, number of payments, and a repayment schedule determined by the board based on the total project costs, amount of the loan, amount of match in local funds, award priority areas addressed by the project, and purposes listed in section 650.330.1(16), RSMo to be accomplished. The project agreements will require each eligible applicant's 911 services authority to agree to repay the loan on behalf of the eligible applicant.

(2) **Fund Disbursement.** The board will not disburse any financial assistance for any project until a project agreement has been fully executed and it has received a written certification of approval, such as a resolution, of the project agreement from the applicants' respective governing bodies or the applicants have demonstrated to the board's satisfaction that no such approval is required.

(3) **Project Agreement Change Requests.** 911 services authorities must obtain written approval of the board or its designee before making any material changes to an approved project.

(A) 911 services authorities may request approval of the board or its designee for a material change to an approved project by submitting a written request by electronic mail to the electronic mail address in the project agreement or by certified or registered mail addressed to "Missouri 911 Service Board" at P.O. Box 2126, Jefferson City 65102.

(B) Requests must include a detailed explanation of the circumstances warranting the requested change.

(C) The board or its designee, in its sole discretion, will determine all change requests on a case by case basis and advise the requestor in writing of the board's decision. If a change request is denied, the writing will advise of the protest procedure in 1 CSR 90-1.040(9).

(4) **Extensions of Time.** 911 services authorities may request extensions of the project completion deadline in their project agreement by submitting a written request by electronic mail to the electronic mail address in the project agreement or by certified or registered mail addressed to "Missouri 911 Service Board" at P.O. Box 2126, Jefferson City 65102.

(A) Requests must include a detailed explanation of the circumstances warranting extension of the project completion deadline.

(B) Requests for extension must be received by the board at least forty-five (45) calendar days before the expiration of the current project completion deadline.

(C) The board will not consider any request for extension of a project completion deadline that exceeds six months.

(D) The board or its designee, in its sole discretion, will determine all requests for extensions on a case-by-case basis and will grant a timely submitted first request for extension when the requestor demonstrates an inability to meet its project completion deadline despite a good faith effort to do so. Second and subsequent requests for extension will be viewed unfavorably and will only be granted when the board determines that substantial justification or extreme circumstances exist.

(E) The board or its designee will notify the requestor of its decision in writing. If a request for extension is denied, the writing will advise of the protest procedure in 1 CSR 90-1.040(9).

(5) **Audits.** The board will conduct audits as it deems appropriate. Applicants and 911 services authorities shall provide any information requested by the board and access to the project site.

(6) **Funding Change or Termination.** The board reserves the right to reduce, suspend or terminate the provision of financial assistance before or after execution of the project agreement due to a lack of funds, misrepresentations on the application, a failure to comply with the project agreement or applicable laws, or other conduct deemed inappropriate by the board.

AUTHORITY: sections 650.330 and 650.335, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. A proposed rule covering this same material is published in this issue of the Missouri Register.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions and other public entities more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will cost private entities less than five hundred dollars (\$500) in the time the emergency is effective.

Title 11—DEPARTMENT OF PUBLIC SAFETY

Division 90—Missouri 911 Service Board

Chapter 2—911 Financial Assistance Program

EMERGENCY RULE

11 CSR 90-2.050 Protests

PURPOSE: This rule establishes a procedure to protest adverse actions taken by the board.

EMERGENCY STATEMENT: This emergency rule informs the public of the board's procedure for protesting adverse actions taken by the board. This rule is necessary to comply with sections 650.325 to 650.335, RSMo and sections 190.400 to 190.460, RSMo which charge the board with taking immediate steps toward improving access to 911 emergency services to protect Missouri residents in emergency situations, particularly in underserved areas of the state. The board is required to set percentage rates of the prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund to reimburse 911 services authority for costs incurred to implement and operate Missouri 911 systems and for answering and dispatching emergency calls. The board also is required to establish and administer a grant and loan program to provide financing from the Missouri 911 service trust fund for costs of implementing 911 communications service projects. It is necessary to promulgate rules establishing the board's definition for terms used in this chapter. Without such rules, the board will be unable to effectively discharge its duties and protect Missouri residents by immediately taking steps that will improve access to 911 emergency services, particularly those in underserved areas of the state. As a result, the board finds a compelling governmental interest in promoting the health and safety of Missouri residents in emergency situations, requiring this emergency action. A proposed rule covering the same material is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The board believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed May 6, 2020, becomes effective May 21, 2020, and expires February 25, 2021.

(1) **Protest Procedure.** Applicants and 911 services authorities may protest any adverse action taken by the board related to their applications (assuming the applicants are eligible applicants) or a project agreement signed by them by submitting a protest by certified or registered mail addressed to "Missouri 911 Services Board" at P.O. Box 2126, Jefferson City 65102, or by electronic mail addressed to admin@missouri911.org.

(A) **Protest Deadline.** Protests must be received by the board within fourteen (14) calendar days after the date of adverse action. If the tenth day falls on a Saturday, Sunday, or state holiday, the period will extend to the next state business day.

(B) **Protest Requirements.** All protests shall be in writing and include the following information:

1. Name, address, and phone number of the protesting applicants and 911 services authorities;
2. Signature of an authorized representatives of the protesting applicants and 911 services authorities;
3. Detailed statement of the grounds for the protest; and
4. Supporting exhibits, evidence, or documents for protest.
5. The board will deny a protest that does not contain all required information, is untimely or fails to establish standing to protest.
6. All protests meeting the above requirements will be reviewed by the board.
7. The board will only issue a determination on the issues asserted in the protest.
8. The board's determination will be in writing, will set forth the facts relied upon, an analysis of the protest, and a conclusion that the protest will either be sustained or denied in whole or part, and will be mailed to the protesting applicants and 911 services authorities by registered or certified mail.
- A. If the protest is sustained, remedies include a modification or reversal of the protested adverse action.
- B. If the protest is denied, the board will take no further action on the protest.

AUTHORITY: sections 650.330 and 650.335, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. A proposed rule covering this same material is published in this issue of the *Missouri Register*.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions and other public entities more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will cost private entities less than five hundred dollars (\$500) in the time the emergency is effective.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 90—Missouri 911 Service Board
Chapter 3—Funding Rates**

EMERGENCY RULE

11 CSR 90-3.010 Funding Rates

PURPOSE: This rule establishes rates of prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund that will be paid under section 190.460, RSMo.

EMERGENCY STATEMENT: This emergency rule establishes rates of prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund that will be paid under section 190.460 to counties. This rule is necessary to comply with sections 650.325 to 650.335, RSMo and sections 190.400 to 190.460, RSMo which charge the board with taking immediate steps toward improving access to 911 emergency services to protect Missouri residents in emergency situations, particularly in underserved areas of the state. The board is required to set percentage rates of the prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund that will be paid to counties to fund costs incurred to implement and operate Missouri 911 systems and for answering and dispatching emergency calls. It is necessary to promulgate a rule to establishing the rate. Without such a rule, the board will be unable to effectively discharge its duties and protect Missouri residents by immediately taking steps to fund 911 emergency services. As a result, the board finds a compelling governmental interest in promoting the health and safety of Missouri residents in emergency situations, requiring this emergency action. A proposed rule covering the same material is published in this issue of the *Missouri Register*. The

scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The board believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed May 6, 2020, becomes effective May 21, 2020, and expires February 25, 2021.

(1) Forty percent (40%) of the prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund, less the deductions authorized by section 190.460.3(4), RSMo shall be remitted to each county without a charter form of government in direct proportion to the amount of charges collected in that county, if any.

(2) Sixty-five percent (65%) of the prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund, less the deductions authorized by section 190.460.3(4), RSMo shall be remitted to each county other than counties without a charter form of government in direct proportion to the amount of charges collected in that county, if any.

AUTHORITY: sections 190.460.3 and 650.330.6, RSMo 2019 Supp. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. A proposed rule covering this same material will be published in this issue of the *Missouri Register*.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions and other public entities more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will cost private entities less than five hundred dollars (\$500) in the time the emergency is effective.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 35—Children's Division
Chapter 60—Licensing of Foster Family Homes**

EMERGENCY RULE

13 CSR 35-60.120 Criminal Background Check Screening due to Coronavirus-Related Closures

PURPOSE: This emergency rule will allow for an alternate criminal history background check process and timeframe for foster parent applicants due to coronavirus-related closures of fingerprinting locations.

EMERGENCY STATEMENT: This emergency rule allows the Department of Social Services to continue the foster parent licensure process with an alternative fingerprinting method as allowed by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. §5121 et seq.) due to the Secretary of Health and Human Services' declaration of a public health emergency on January 31, 2020, under §319 of the Public Health Service Act (42 U.S.C. §247d), in response to the coronavirus pandemic. Due to the public health emergency, as allowed under the Stafford Act, the Department of Health and Human Services, Administration on Children and Families has issued notice of flexibility in meeting the federal requirements of Section 471(a)(20)(A) and (C) of the Social Security Act related to fingerprint-based criminal records checks. This emergency rule is necessary to protect a compelling governmental interest by licensing foster parent applicants for future placement of children during and immediately following the public health emergency effective April 17, 2020, and ensures compliance with the Social Security Act's title IV-E, which will allow Missouri to utilize federal funds. As a result, the Department of Social Services finds a compelling governmental interest requiring this emergency action. The scope of this

emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department of Social Services believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed May 6, 2020, becomes effective May 21, 2020, and expires February 25, 2021.

(1) Notwithstanding any other regulations to the contrary, beginning April 17, 2020, any applicant, any household member age seventeen (17) and older, and any child less than seventeen (17) who has been certified as an adult for the commission of a crime, or has been convicted or pled guilty or *nolo contendere* to any crime, shall register with the Family Care Safety Registry (FCSR) and submit signed release forms and fingerprints for the purpose of obtaining background screening for child abuse or neglect, criminal, and circuit court records.

(A) Fingerprints shall be sent to the Missouri State Highway Patrol for criminal background checks. Subject to geographic availability, as determined by the Children's Division, fingerprinting shall be completed prior to issuance of a license.

(B) In the event fingerprinting is not available due to closures of fingerprinting locations in the applicant's geographic region, a name-based criminal background check utilizing the individual's name, date of birth, social security number, sex, and race is satisfactory for licensure provided that fingerprints are submitted to the Missouri State Highway Patrol for positive identification as soon as possible, but no later than one hundred eighty (180) calendar days from the date of the preliminary name-based background check, or ninety (90) calendar days from the expiration of the state's emergency declaration, whichever occurs sooner.

(2) The failure to follow all requirements and timeframes for criminal background checks, including fingerprints, shall be grounds for license revocation in accordance with 13 CSR 35-60.090.

AUTHORITY: sections 207.020, 210.486, and 660.017, RSMo 2016, and section 210.487, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. A proposed rule covering this same material is published in this issue of the *Missouri Register*.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.

Title 20—DEPARTMENT OF COMMERCE AND INSURANCE

Division 2250—Missouri Real Estate Commission Chapter 5—Fees

EMERGENCY AMENDMENT

20 CSR 2250-5.020 Application and License Fees. The commission is amending sections (2) and (3), deleting section (4) and renumbering as necessary.

PURPOSE: This amendment adjusts the initial licensing fees and the renewal fees for non-resident real estate applicants and licensees.

EMERGENCY STATEMENT: The Missouri Real Estate Commission is statutorily obligated to set all fees, by regulation, necessary to administer the provisions of sections 339.010 to 339.180 and sections

339.710 to 339.860, RSMo. Pursuant to section 339.060(1), RSMo, the commission shall set the appropriate amount of fees by rule, so that the revenue produced shall not substantially exceed the cost and expense of administering the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860, RSMo. On October 17, 2019, the Missouri Real Estate Commission commissioners met to review the fee structure charged real estate applicants. The commissioners voted unanimously to immediately change the fees charged to non-residents for real estate licenses to the same fee charged to Missouri residents. Therefore, the commission decreased non-resident initial licensing fees and non-resident renewal fees to mirror those fees charged resident applicants.

This change will become effective immediately and includes the following: Salesperson non-resident initial licensing fee will decrease from one-hundred dollars (\$100) to forty dollars (\$40). Broker non-resident initial licensing fee will decrease from one-hundred fifty dollars (\$150) to eighty dollars (\$80). Entity (brokerage) non-resident initial licensing fee will decrease from one-hundred fifty dollars (\$150) to eighty dollars (\$80). Professional corporation salesperson non-resident initial licensing fee will decrease from one-hundred fifty dollars (\$150) to eighty dollars (\$80) and professional corporation broker non-resident initial licensing fee will decrease from one-hundred fifty dollars (\$150) to eighty dollars (\$80). Salesperson non-resident renewal fee will decrease from one-hundred dollars (\$100) to forty dollars (\$40). Broker non-resident renewal fee will decrease from one-hundred fifty dollars (\$150) to fifty dollars (\$50). Entity (brokerage) non-resident renewal fee will decrease from one-hundred fifty dollars (\$150) to fifty dollars (\$50). Professional corporation salesperson non-resident renewal fee will decrease from one-hundred dollars (\$100) to forty dollars (\$40) and professional corporation broker non-resident renewal fee will decrease from one-hundred fifty dollars (\$150) to fifty dollars (\$50).

In 2019, on average, almost three hundred fifty (350) real estate licenses were issued each month by the Missouri Real Estate Commission. Over two hundred (200) initial applications for real estate licenses and numerous late renewal applications were received every month at the commission's central office. All forty-six thousand six hundred seven (46,607) real estate licenses come due for renewal during calendar year 2020. Broker type licenses begin renewal effective June 1, 2020 and salesperson type licenses begin renewal effective August 1, 2020. Almost fifteen percent (15%) of the forty-six thousand six hundred seven (46,607) real estate licensees in Missouri are non-residents six thousand six hundred thirteen (6,613), which generates almost twenty-three percent (23%) of the total revenue collected by the Missouri Real Estate Commission. Without this emergency amendment, the non-resident reduced fee requirements will not be in effect for new applicants applying for real estate licenses and current licensees renewing their licenses beginning June 1; thus, the commission will continue to collect more revenue than is necessary to collect.

The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. In developing this emergency amendment, the commission has determined that the fee reduction is necessary for the remainder of calendar year 2020 and forward in order to prevent funds from exceeding the maximum fund balance, thereby, resulting in a transfer of user fee funds to general revenue as set forth in section 339.070(2), RSMo.

The Missouri Real Estate Commission commissioners have determined that a compelling governmental interest is deemed to exist for the purposes of section 536.025, RSMo, in urging that non-resident licensure fees must be the same as resident licensure fees. Pursuant to section 324.001(10), RSMo, which states in pertinent part "... 10. A compelling governmental interest shall be deemed to exist for the purposes of section 536.025 for licensure fees to be reduced by emergency rule, if the projected fund balance of any agency assigned to the division of professional registration is reasonably expected to exceed an amount that would require transfer from that fund to

general revenue..." The commission believes this emergency amendment to be fair to all interested persons and parties under the circumstances. A proposed amendment covering this same material is published in the this issue of the **Missouri Register**. This emergency amendment was filed May 12, 2020, becomes effective May 27, and expires February 25, 2021.

(2) The following fees shall be paid for original issuance:

[(D) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation \$150

and

(E) Nonresident Salesperson \$100]

(3) The following fees shall be paid for renewal of licenses:

[(E) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation \$150

and

(F) Nonresident Salesperson and Inactive Salesperson \$100]

[(4) Effective April 1, 2008, the following fees shall be paid for the 2008 renewal of licenses expiring June 30, 2008 and September 30, 2008:

(A) Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer or Broker-Salesperson \$ 10

(B) Salesperson or Inactive Salesperson \$ 10

(C) Partnership, Association, Corporation or Professional Corporation \$ 10

(D) Delinquent Fee \$ 50
(per month or partial month elapsed since date of expiration not to exceed a maximum delinquent fee)

(E) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation \$ 10

and

(F) Nonresident Salesperson and Inactive Salesperson \$ 10]

[(5)](4) The following fees shall be paid for the appropriate transactions:

(A) Transfer/Status Change \$50

(B) Replacement of a Lost, Destroyed, or Stolen License \$25

(C) Certification of Licensure \$10

and

(D) Professional Corporation Name Approval Fee \$10

and 339.850, RSMo [Supp. 2007] 2016, and section 339.120, RSMo Supp. 2019. This rule originally filed as 4 CSR 250-5.020. Original rule filed Jan. 16, 1979, effective April 12, 1979. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed May 12, 2019, effective May 27, 2020, expires Feb. 25, 2021. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.

PUBLIC COST: This emergency amendment will cost state agencies or political subdivisions one hundred twenty-five thousand, four hundred thirty dollars (\$125,430) in the time the emergency is effective.

PRIVATE COST: This emergency amendment will save private entities one hundred twenty-five thousand, four hundred thirty dollars (\$125,430) in the time the emergency is effective.

AUTHORITY: sections 339.030, 339.040, 339.045, 339.050, 339.060, 339.070, 339.090 [and 339.120], 339.125, 339.170,

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Commerce and Insurance
Division 22250 - Missouri Real Estate Commission
Chapter 5 - Fees
Proposed Emergency Amendment to 20 CSR 2250-5.020 - Application and License Fees

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Loss of Revenue	
Missouri Real Estate Commission		\$125,430
	In the time the emergency is effective	\$125,430

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The total loss of revenue is based on the cost savings to private entities reflected in the Private Fiscal Note filed with this rule.
2. The board utilizes a rolling five-year financial analysis process to evaluate its fund balance, establish fee structure, and assess budgetary needs. The five-year analysis is based on the projected revenue, expenses, and number of licensees. Based on recent litigation, the board elected to reduce nonresident fees to the same level of resident fees.

PRIVATE FISCAL NOTE**I. RULE NUMBER****Title 20 -Department of Commerce and Insurance****Division 22250 - Missouri Real Estate Commission****Chapter 5 - Fees****Proposed Emergency Amendment to 20 CSR 2250-5.020 - Application and License Fees****II. SUMMARY OF FISCAL IMPACT**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated savings for the life of the emergency rule by affected entities:
87	Original Issue License Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation (Application Fee Decrease @ \$70)	\$6,090
240	Nonresident Salesperson Original License (Application Fee Decrease @ \$60)	\$14,400
513	Biennial Renewal Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation (Renewal Fee Decrease @ \$100)	\$51,300
894	Biennial Renewal Nonresident Salesperson (Renewal Fee Decrease @ \$60)	\$53,640
In the time the emergency is effective		\$125,430

III. WORKSHEET

See Table Above

IV. ASSUMPTION

1. The above figures are based on FY20 and FY21 estimates.
2. This fiscal note shows the number of nonresident applicants and licensees expected to apply and renew biennially.
3. It is anticipated that the total fiscal savings will occur beginning in FY20, may vary with inflation, and is expected to increase at the rate projected by the Legislative Oversight Committee.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE
Division 2263—State Committee for Social Workers
Chapter 1—Fees**

EMERGENCY AMENDMENT

20 CSR 2263-1.035 Fees. The State Committee for Social Workers is proposing to amend subsection (1)(C).

PURPOSE: This emergency amendment increases 2020 social worker renewal fees to ensure compliance with section 337.612, RSMo.

EMERGENCY STATEMENT: The State Committee for Social Workers is statutorily obligated to set all fees, by regulation, necessary to administer the provisions of Chapter 337.600, RSMo. Pursuant to section 337.612, RSMo, the committee shall set the appropriate amount of fees by rule, so that the revenue produced shall not substantially exceed the cost and expense of administering the provisions of sections 337.600 to 337.689, RSMo. In 2009, fees were reduced in order to remain in compliance with 337.612(5), RSMo. However, steadily increasing costs of doing business have reduced the operating fund below a workable level. The committee is proposing to increase the renewal fee from fifty-eight dollars (\$58) to sixty-five dollars (\$65). Renewal notices will be mailed on July 1, 2020. Without this emergency amendment, the increased renewal fees will not be effective prior to mailing and the committee would not collect the additional revenue needed to maintain solvency. In developing this emergency amendment, the committee has determined that the fee increase is necessary for the 2020 renewal period in order to maintain an adequate fund balance necessary to administer the provisions of sections 337.600 to 337.689, RSMo.

*Pursuant to section 324.001.10, RSMo, a compelling governmental interest is deemed to exist for the purposes of section 536.025, RSMo, for licensure fees to be increased by emergency rule. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The State Committee for Social Workers believes this emergency amendment to be fair to all interested persons and parties under the circumstances. A proposed amendment covering this same material is published in this issue of the **Missouri Register**. This emergency amendment was filed May 14, 2020, becomes effective May 29, 2020, and expires February 25, 2021.*

(1) The following fees are established by the committee and are payable in the form of a cashier's check, personal check, or money order:

(C) Two- (2-)/-1 Year License Renewal Fee \$ ~~58.00~~**65.00**

*AUTHORITY: sections 337.612 and 337.627, RSMo Supp. [2009] 2019. This rule originally filed as 4 CSR 263-1.035. Original rule filed Jan. 20, 1999, effective July 30, 1999. Emergency amendment filed May 14, 2020, effective May 29, 2020, expires Feb. 25, 2021. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

PUBLIC COST: This emergency amendment will not have a cost to state agencies or political subdivisions in the time the emergency is effective.

PRIVATE COST: This emergency amendment will cost private entities approximately twenty-three thousand eight hundred dollars (\$23,800) in the time the emergency is effective.

PRIVATE FISCAL NOTE**I. RULE NUMBER**

Title 20 - Department of Commerce and Insurance
Division 2263 - State Committee for Social Workers
Chapter 1 - Fees
Proposed Emergency Amendment to 20 CSR 2263-1.035 - Fees

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost for the life of the emergency rule by affected entities:
3,400	Social Workers (Renewal Fee Increase @ \$7)	\$23,800
	IN THE TIME THE EMERGENCY IS EFFECTIVE	\$23,800

III. WORKSHEET

See Table Above

IV. ASSUMPTION

1. The above figures are based on FY20 and FY21 estimates.
2. This fiscal note shows the number of licensees expected to apply and renew during the time the emergency is effective.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo.

EXECUTIVE ORDER 20-10

WHEREAS, COVID-19 is a novel severe acute respiratory illness that is spread through close contact between persons and respiratory transmissions and is highly contagious; and

WHEREAS, I have been advised by the Missouri Department of Health and Senior Services and the State Emergency Management Agency that there have been numerous confirmed and presumptive positive cases of COVID-19 in this state, and COVID-19 continues to pose a serious health risk for the citizens and visitors of the State of Missouri; and

WHEREAS, due to the presence and spread of COVID-19, I declared a state of emergency throughout the State of Missouri on March 13, 2020, and issued Executive Order 20-02; and

WHEREAS, on April 24, 2020, I extended the state of emergency through June 15, 2020, in Executive Order 20-09; and

WHEREAS, I issued Executive Orders 20-04, 20-05, 20-06, and 20-08 during the state of emergency to provide greater flexibility to the State and its residents and provide necessary resources to address the COVID-19 public health threat; and

WHEREAS, Executive Order 20-04 was issued on March 18, 2020, ordering the temporary suspension of certain statutory and regulatory provisions related to telemedicine, motor carriers, and teaching certifications, and vested state agencies and executive boards and commissions with authority to waive or suspend statutory or regulatory requirements, subject to my approval, where strict compliance would hinder the State's response to COVID-19, and to ease licensing requirements to eliminate barriers to the provision of health care services and other professions; and

WHEREAS, Executive Order 20-05 was issued on March 23, 2020, ordering the temporary suspension of prohibitions on the sale of unprepared foods by restaurants; and

WHEREAS, Executive Order 20-06 was issued on March 26, 2020, ordering and directing the Adjutant General of the Missouri National Guard, or his designee, to forthwith call and order into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri and to protect life and property, and further ordering and directing that the Adjutant General or his designee, and through him, the commanding officer of any unit or other organization of such organized militia so called into active service, take such action and employ such equipment may be necessary in support of civilian authorities, and provide such assistance as may be authorized and directed by the Governor; and

WHEREAS, Executive Order 20-08 was issued on April 6, 2020, ordering the suspension of the personal appearance requirement for notary publics and authorizing the use of remote electronic notarizations subject to the requirements set forth in the Order; and

WHEREAS, the identification of additional cases in Missouri is likely to continue as we increase our testing capacity. Steps must be taken to prevent a substantial risk to public health and safety as we gradually begin to reopen Missouri's economic and social activity; and

WHEREAS, resources of the State of Missouri continue to be needed to address the risk of COVID-19 and to respond to a declared emergency and the increased health threat to the public; and

WHEREAS, Executive Orders 20-04, 20-05, 20-06, and 20-08 will expire on May 15, 2020, unless extended in whole or part; and

WHEREAS, I find it necessary to continue and extend Executive Orders 20-04, 20-05, 20-06, and 20-08.

NOW, THEREFORE, I, MICHAEL L. PARSON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the Laws of the State of Missouri do hereby extend the provisions, in whole, of Executive Orders 20-04, 20-05, and 20-08. I also extend the order to the Adjutant General of the State of Missouri, to forthwith call and order into active service such portions of the organized militia as he deems necessary to aid the executive officials of Missouri, to protect life and property contained in Executive Order 20-06.

This Order shall terminate on June 15, 2020, unless extended in whole or part.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 4th day of May, 2020.

A handwritten signature in black ink, reading "Michael L. Parson".

MICHAEL L. PARSON
GOVERNOR

ATTEST:

A handwritten signature in black ink, reading "John R. Ashcroft".
JOHN R. ASHCROFT
SECRETARY OF STATE

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbolology under the heading of proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety- (90-) day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 9—DEPARTMENT OF MENTAL HEALTH Division 40—Licensing Rules Chapter 1—Definitions *[and Procedures]*, *Licensing Procedures, and General Requirements for Community Residential Programs and Day Programs*

PROPOSED AMENDMENT

9 CSR 40-1.015 Definitions. The department is amending the chapter title, purpose, and section (3), deleting old definitions and terms in (2)(A)-(UU) and section (4), and adding updated terms and definitions in the new subsections (2)(A)-(NNN).

PURPOSE: *This amendment updates terms and definitions used in licensing rules. Outdated terms have been removed.*

PURPOSE: *This rule defines terms *[and explains usage rules for terms]* used in *licen[sure]ing* procedures and rules developed under*

*sections 630.705–630.760, RSMo, for all *[licensed]* community residential programs *[facilities]* and day programs subject to licensure by the department, including Residential Care Facilities and Assisted Living Facilities dually licensed by the Department of Health and Senior Services.*

(2) The following additional words and terms, as used in 9 CSR 40, mean:

[(A) Administrative agent, as set forth in 9 CSR 30-4.031, an agency and its approved designee(s) authorized by the Division of Comprehensive Psychiatric Services as an entry and exit point into the state mental health service delivery system of a geographic service area defined by the division;

(B) Applicant, an individual, partnership, association, corporation or governmental entity which has applied to the department for a license or program license;

(C) Aversive stimulus, an object or event, excluding restraint, protective devices and time-out, that is identified as punitive, painful or degrading;

(D) Board of inquiry, one (1) or more employees of a state hospital or regional center assigned to investigate allegations of abuse or neglect in a licensed community residential facility or day program;

(E) Central investigative unit, department staff in the Office of Departmental Affairs assigned to investigate allegations of abuse and neglect under special circumstances;

(F) Chemical restraints, as defined in section 630.005, RSMo, are drugs which are prescribed or administered to temporarily restrain a client or resident who presents a likelihood of serious physical harm to him/herself or others;

(G) Class I neglect, failure of an employee to provide reasonable and necessary services to maintain the physical and mental health of any client or resident when that failure presents either imminent danger to the health, safety or welfare of a client or resident, or a substantial probability that death or physical injury would result;

(H) Class II neglect, failure of an employee to provide reasonable or necessary services to a client or resident according to the individualized treatment or habilitation plan, if feasible, or according to acceptable standards of care;

(I) Community residential facility, any premises where residential prevention, evaluation, care, treatment or habilitation are provided for persons affected by mental retardation, developmental disabilities, mental illness or mental disorders, except for a person's dwelling;

(J) Day program, a place providing a series of interventions, activities and instruction delivered by qualified staff for the purpose of evaluation, treatment, habilitation or rehabilitation for persons with mental disorders, mental illness, mental retardation or developmental disabilities. These interventions, activities and instruction occur on a regularly scheduled basis at least two (2) days a week for three (3) hours or more but less than twenty-four (24) hours in each daily period. The provision of evaluation, treatment, habilitation and rehabilitation does not include the following types of services and facilities: summer camps; on-site job training programs; professional service facilities, such as offices of physicians, physical therapists; and occupational therapists and programs operating solely for social welfare functions including, but not limited to, nutrition and meal sites, food or clothing distribution or provision of temporary safe shelter. Also excluded is any adult day care program, day care home or day nursery licensed by the Department of Social Services or the Department of Health or exempt from licensing under section 660.405 or 210.211, RSMo which provides only day care and does not offer nor holds itself out

as offering services normally subject to licensing by the Department of Mental Health;

(K) *Department facility*, a facility operated by the department or designated by the department as a department facility;

(L) *Dual diagnosis*, a person who has both a diagnosis of mental retardation and mental illness. A facility serving a person with a dual diagnosis is subject to the rules regulating mental retardation, regardless of which diagnosis is primary;

(M) *Family living arrangement*, a residential facility operating in the owned or leased permanent residence of the licensee, serving no more than three (3) residents who are integrated into the licensee's family unit. The facility does not normally use direct-care staff other than members of the household. However, volunteer or paid staff may be used to provide direct-supervisory care in the facility for occasional weekends, evenings, vacations, and the like, as relief for the licensee;

(N) *Group home*, a residential facility serving nine (9) or fewer residents, similar in appearance to a single-family dwelling and providing basic health supervision, habilitation training in skills of daily and independent living and community integration, and social support. Group homes do not include family living arrangements or individualized support-living;

(O) *Head of supervising facility*, the superintendent of a state hospital or regional center director in whose region an allegation of abuse or neglect is under investigation;

(P) *Individualized habilitation plan (IHP)*, a document which sets forth habilitation goals and objectives for clients or residents, and which details the habilitation program as required by 9 CSR 40-3.135, 9 CSR 40-4.135 and 9 CSR 40-9.135;

(Q) *Individualized program plan*, a document which sets forth program goals and objectives for clients or residents and which details the program objectives as required by 9 CSR 40-3.135, 9 CSR 40-4.135 and 9 CSR 40-9.135;

(R) *Individualized treatment plan (ITP)*, a document which sets forth treatment goals and objectives for clients or residents, and which details the treatment program as required by 9 CSR 40-3.135, 9 CSR 40-4.135 and 9 CSR 40-9.135;

(S) *Isolation*, removing an individual from a social setting to prevent spread of contagious disease;

(T) *Latch-key program*, day care supervisory services to persons who are mentally retarded before and after school or day program activities but is not designed to pursue objectives within an IHP;

(U) *License*, written notification that a residential facility or day program complies with licensing requirements to serve clients;

(V) *Licensee*, an individual, partnership, association, corporation or governmental entity which has received from the department a license or program license for the operation of a community residential facility or day program;

(W) *Mechanical restraints*, any device, instrument or physical object used to confine or otherwise limit a client's or resident's freedom of movement except when necessary for orthopedic, surgical and other medical purposes;

(X) *Mechanical supports*, supportive devices used in normative situations to achieve proper body position and balance; these are not restraints;

(Y) *Medical treatment*, any activity for curing or healing, or for relieving pain, including physical therapy;

(Z) *Mental health professional (MHP)*—

1. A physician licensed under Missouri law to practice medicine or osteopathy and with training in mental health services or one (1) year of experience, under supervision, in

treating problems related to mental illness or specialized training;

2. A psychiatrist, a physician licensed under Missouri law who has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association or other training program identified as equivalent by the department;

3. A psychologist licensed under Missouri law to practice psychology with specialized training in mental health services;

4. A professional counselor licensed under Missouri law to practice counseling and with specialized training in mental health services;

5. A licensed clinical social worker with a master's degree in social work from an accredited program and with specialized training in mental health services;

6. A psychiatric nurse, a registered professional nurse licensed under Chapter 335, RSMo with at least two (2) years of experience as a registered nurse in a psychiatric setting or a master's degree in psychiatric nursing;

7. An individual possessing a master's or doctorate degree in counseling and guidance, rehabilitation counseling, vocational counseling, psychology, pastoral counseling or family therapy or related field who has successfully completed a practicum or has one (1) year of experience under the supervision of a mental health professional; and

8. An occupational therapist certified by the American Occupational Therapy Certification Board, registered in Missouri, has a bachelor's degree and has completed a practicum in a psychiatric setting and has one (1) year of experience in a psychiatric setting, or has a master's degree and has completed either a practicum in a psychiatric setting or has one (1) year of experience in a psychiatric setting;

(AA) *Nonambulatory*, unable to walk independently without assistance of a mechanical device or another person;

(BB) *Occupant*, any person excluding staff, who lives at a community residential facility. This includes, but is not limited to, residents, the children of staff, friends and relatives;

(CC) *Person's dwelling*, the private home of a person providing care, treatment and habilitation or rehabilitation to a relative or a home occupied by a client or resident who functions independently of protective oversight services;

(DD) *Physical abuse*—

1. Purposefully beating, striking, wounding or injuring any client or resident; or

2. In any manner whatsoever mistreating or maltreating a client or resident in a brutal or inhumane manner. Physical abuse includes handling a client or resident with any more force than is reasonable or apparently necessary for a client's or resident's proper control, treatment or management;

(EE) *Physical restraint*, physical holding involving a restriction on an individual's voluntary movement to temporarily restrain an agitated, violent or aggressive client or resident who presents a likelihood of serious physical harm to him/herself or others;

(FF) *Probationary license*, written authorization to continue service delivery for a specified period of time to enable a licensee to achieve compliance with the department's licensing requirements as set forth in a consent agreement between the department and the licensee;

(GG) *Program license*, written notification that a community residential facility or day program which already has a license, temporary operating permit or probationary license from the Department of Social Services under sections 198.006—198.096, RSMo also meets the department's licensing requirements relative to admission criteria, care, treatment and habilitation or rehabilitation needs of residents

or clients;

(HH) Protective device, mitts, helmets, bed rails, splints, wheelchairs and crib nets;

(II) Protective oversight, continuous awareness of a resident's functioning, the resident's whereabouts, the ability to intervene if a crisis arises for the resident, supervision in nutrition or medication or actual provision of care and a twenty-four (24)-hour responsibility for the welfare of the resident;

(JJ) Psychiatric group home, a community residential facility with less than sixteen (16) residents providing twenty-four (24)-hour accommodations, psychiatric supervision, board, storage and distribution of medications, protective oversight and psychosocial rehabilitation for residents who can benefit from an intense, highly structured treatment setting;

(KK) Psychiatric Group Home II, a residential treatment program for young adults who are mentally ill, between the ages of eighteen to twenty-one (18–21), inclusive, licensed by the Department of Mental Health for eight to ten (8–10) residents;

(LL) Qualified mental retardation professional (QMRP). The following represents the minimum requirements for individuals to be considered QMRPs:

1. Psychologist, a person with at least a master's degree in psychology from an accredited school with at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities;

2. Physician, a doctor of medicine or osteopathy, who has at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities;

3. Social worker, a person who holds a graduate degree from a school of social work accredited or approved by the Council on Social Work Education (CSWE) or another comparable body, or a person who holds a bachelor of social work degree from a college or university accredited or approved by the CSWE or another comparable body. The social worker must also have at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities;

4. Occupational therapist, a person eligible for certification by the American Occupational Therapy Association or another comparable body who has at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities;

5. Physical therapist, a person who is eligible for certification by the American Physical Therapy Association or another comparable body and who has at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities;

6. Speech pathologist or audiologist, a person who is eligible for a certificate of clinical competence in speech-language pathology or audiology granted by the Speech-Language-Hearing Association or another comparable body; or a person who meets the educational requirements for certification and who is in the process of accumulating the supervised experience required for certification. A speech pathologist or audiologist must also have at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities;

7. Registered nurse, a person who is a registered nurse and who has at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities;

8. Professional recreation staff member, a person who has a bachelor's degree in recreation or in a specialty area such as art, dance, music or physical education and who has

at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities; and

9. Human services professional, a person who has at least a bachelor's degree in a human services field (including, but not limited to, psychology, sociology, rehabilitation counseling and special education) and who has at least one (1) year of experience in working directly with persons with mental retardation or other developmental disabilities;

(MM) Research, intervention or interaction on clients or residents to test hypotheses, derive generalizations to test new interventions classified as experimental whether behavioral, psychological, biomedical or pharmacological and shall include the review of current or past client or resident personally identifiable records, surveying clients or residents, and use of client or resident personally identifiable statistics;

(NN) Residential center, a residential facility serving ten (10) or more residents and providing social support, health supervision and habilitation training in skills of daily living;

(OO) Seclusion, placement alone in a locked room;

(PP) Semi-independent living arrangement, a community residential facility composed of individual living units or apartments each of which provides bedroom space, living space and a kitchen for up to three (3) residents and where protective oversight is provided by staff living on-site or in close proximity, normally in the same building, but not in the same living unit as residents;

(QQ) Sexual abuse, any touching, directly or through clothing, of the genitals, anus or breasts of a client or resident for sexual purpose. Sexual purpose means for the arousing or gratifying of anyone's sexual desires. This definition includes the employee touching a resident and the employee causing the client or resident to touch the employee. It includes fondling through clothing. It also includes aiding and abetting sexual abuse between clients or residents or failing to exercise duty to stop or prevent sexual abuse between clients or residents;

(RR) Substantial compliance, a facility may be found in substantial compliance when deficiencies do not involve:

1. Abuse or neglect—Any instance of abuse/neglect in which corrective action has not been taken;

2. Life endangering conditions—Any single life-endangering item or combination of minor deficiencies which collectively are life endangering or which become perilous contingent upon an event such as the outbreak of fire;

3. Legally required items—Deficiencies related to statutory requirements for DMH-licensed facilities, such as consumers' rights and licensure procedures;

4. Repeated deficiencies—Items which may or may not be serious in and of themselves, but which become significant when left uncorrected according to agreed upon schedules over a period of time;

5. Numerous deficiencies—Deficiencies which may or may not be serious themselves, but become significant collectively because they indicate an ineffective maintenance plan, deficient housekeeping standards, inadequate orientation or training of staff, poor nursing care practice, inadequate diet, lack of habilitation or rehabilitation, ineffective policy and procedures, inadequate staffing, poor recordkeeping, or other problems which may affect the consumers' well being; or

6. Minimum physical plant requirements—Quantitative requirements under physical plant and fire safety relating to minimum dimensions for hallways, doors, ceiling heights, window space, floor space, number of bathrooms, and occupants per bedroom;

(SS) Temporary operating permit, written authorization permitting licensee seeking licensing for a new licensing

period or a new owner applying for the license to continue service delivery pending completion of the licensing survey process;

(TT) Time-out, temporary exclusion or removal of a client or resident from positive reinforcement as part of a formal behavior modification procedure in which, contingent upon the client's or resident's emission of undesired behavior, the client or resident is removed from the situation that affords positive reinforcement; and

(UU) Verbal abuse, referring to a client or resident in the client's or resident's presence with profanity or in a demeaning, undignified or derogatory manner.]

(A) Administrative agent, an organization and its approved designee(s) authorized by the department as an entry and exit point into the state mental health service delivery system for a geographic service area defined by the department. Administrative agents provide statewide access crisis intervention services, including a twenty-four (24) hour crisis mobile response by qualified mental health professionals;

(B) Access Crisis Intervention (ACI), as defined in 9 CSR 30-4.195 Access Crisis Intervention (ACI) Programs;

(C) Affiliate, an organization that is contracted with the department to provide specific community psychiatric rehabilitation (CPR) services for adults in a specific designated geographic region;

(D) Applicant, an individual, partnership, association, corporation, or governmental entity which has applied to the department for a license or program license;

(E) Assisted living facility (ALF), any residence, intermediate care facility, or skilled nursing facility licensed under Chapter 198, RSMo, that provides twenty-four (24) hour care and services and protective oversight to three (3) or more adults who need assistance with activities of daily living and instrumental activities of daily living; storage, distribution, or administration of medications; and/or supervision of health care under the direction of a licensed physician;

(F) Behavioral health, the promotion of mental health, resilience, and well-being, the treatment of mental health and substance use disorders, and the support of individuals who experience and/or are in recovery from these conditions, along with their families/natural supports and communities;

(G) Behavioral crisis/mental health crisis, any situation in which a person's behavior puts him/her at risk of hurting him/herself or others and/or prevents him/her from being able to care for him/herself or function effectively in the community;

(H) Behavioral health services, mental health services, substance use disorder treatment services, or a combination of both, for youth, children, and adults. Services may be provided in a residential program, on an outpatient basis, or in a home or community program;

(I) Care plan, document developed by staff of a community residential program or day program in collaboration with the individual served and family members/natural supports, as appropriate, which includes measurable goals and objectives important to the individual to assist him or her in achieving personally defined outcomes, ensures delivery of services and supports in a manner that reflect personal preferences and choices, and contributes to the assurance of health and wellness of the individual served;

(J) Community Psychiatric Rehabilitation (CPR), an array of community-based outpatient mental health services for children, youth, and adults who have been diagnosed with a severe, disabling mental illness or serious emotional disturbance. Administrative agents or their affiliates are responsible for providing these services to eligible individuals in designated service area(s);

(K) Community residential program, any premises where services, structure, oversight, and supports are provided on a resi-

dential basis for adults with mental illness who otherwise would not be able to function outside of psychiatric inpatient care due to the severity and chronicity of their mental illness. This includes, but is not limited to, Intensive Residential Treatment Settings (IRTS), Psychiatric Individualized Supported Living (PISL), Residential Care Facilities (RCF), Intermediate Care Facilities (ICF), and Assisted Living Facilities (ALF);

(L) Competency-based training, the provision of knowledge and skills sufficient to enable the trained staff person to meet specified standards of performance consistent with generally accepted professional standards or specified in law, regulation, or policy, as validated by the person's demonstration that he/she can use such knowledge or skills effectively;

(M) Compliance, a program may be found in compliance with these licensing rules when deficiencies do not involve—

1. Abuse or neglect—any instance of abuse/neglect in which corrective action has not been taken;

2. Life endangering conditions—any single life-endangering event or combination of minor deficiencies which collectively are life endangering or which become perilous contingent upon an event such as the outbreak of fire;

3. Legal requirements—deficiencies related to statutory requirements for programs licensed by the department, such as individual rights and licensing procedures;

4. Repeated deficiencies—issues which may or may not be serious in and of themselves, but which become significant when left uncorrected according to agreed upon schedules over a period of time;

5. Numerous deficiencies—deficiencies which may or may not be serious themselves, but become significant collectively because they indicate an ineffective maintenance plan, deficient environmental standards, inadequate orientation or training of staff, poor nursing care practice, inadequate diet, lack of treatment or rehabilitation, ineffective policies and procedures, inadequate staffing, improper recordkeeping, or other issues which may affect the well being of individuals served; or

6. Minimum environmental requirements—quantitative requirements under environment and fire safety/emergency preparedness relating to minimum dimensions for hallways, doors, ceiling heights, window space, floor space, number of bathrooms, and individuals per bedroom;

(N) Consent agreement, an agreement with the department that is entered into by the director of a community residential program or day program to obtain a probationary license. Such a consent agreement will include a provision that the director of the program will voluntarily surrender the license if compliance with licensing requirements is not reached in accordance with the terms and deadlines established under the agreement. The agreement specifies the stages, actions, and time span to achieve compliance;

(O) Continuing care, the provision of a treatment plan and program structure that will ensure an individual receives the type of care he/she needs at the time, particularly at the point of discharge or transfer from the current program. Programs are flexible and tailored to the changing needs of individuals served;

(P) Crisis, an event or time period for an individual characterized by a substantial increase in symptoms, legal or medical problems, and/or loss of housing, employment, or personal supports;

(Q) Crisis prevention plan, developed with individuals who have a mental illness when a potential risk for suicide, violence, or other at-risk behavior is identified during the assessment process or any time during the individual's engagement in services. At a minimum, the crisis prevention plan includes factors that may precipitate a crisis, a hierarchical list of skills/strengths identified by the individual to regain a sense of control to return to his/her level of functioning before the crisis or emergency, and a hierarchical list of staff interventions that may be used when a

critical situation occurs;

(R) Deemed license, acknowledges that an organization/program is monitored and held accountable by a recognized national accrediting body and the department accepts the organization's verification of good standing with the accrediting body as sufficient to meet the department's standards of care;

(S) Deficiency, a condition, event, or omission that does not comply with a department licensing rule;

(T) Discharge, the point at which an individual's active involvement with a treatment or rehabilitation program concludes in accordance with the goals in his or her individual support plan (ISP), individual treatment plan (ITP), or care plan, applicable utilization criteria, and/or program rules;

(U) Electronic health record (EHR), digital version of individual records;

(V) Family living arrangement (FLA) for adults, a program in the owned or leased permanent residence of the licensee, serving no more than three (3) adults who have a developmental disability who are integrated into the licensee's family unit. The licensee of the home provides care and support as directed in the individual support plan (ISP);

(W) Family living arrangement (FLA) for children/youth, a program in the owned or leased permanent residence of the licensee in which mental health interventions are provided for children and youth placed in the home, allowing the child to remain in his/her community until returning to his/her natural home or alternative community placement to avoid being removed from a community setting;

(X) Individual, a person/consumer/client receiving services from a program licensed under 9 CSR 40;

(Y) Individualized education plan (IEP), a plan developed by trained school staff for children who have a disability and a need for specialized instruction;

(Z) Individual support plan (ISP), a document resulting from a person-centered planning process with an individual with intellectual or developmental disabilities, with assistance as needed by a representative, in collaboration with an interdisciplinary team. The plan is intended to identify the strengths, capacities, preferences, needs, and desired outcomes of the person served. The process may include other people freely chosen by the individual who are able to contribute to the process. The person-centered planning process enables and assists the individual in accessing a personalized mix of paid and non-paid services and supports that will assist him/her in achieving personally defined outcomes and the training, supports, therapies, treatments, and/or other services that become part of the ISP;

(AA) Intensive Residential Treatment Setting (IRTS), living environment with five (5) to sixteen (16) beds where medically necessary services/supports are provided to adults who have a serious mental illness and are transitioning from an inpatient psychiatric hospital to the community, or are at risk of returning to inpatient care due to their clinical status or need for increased support. This environment is most appropriate for individuals who can tolerate regular interaction with their peers, but have significant difficulties with activities of daily living and may require round-the-clock observation and oversight and/or periodic redirection from staff to avoid behaviors potentially harmful to themselves or others;

(BB) Isolation, removing an individual from a social setting to prevent spread of contagious disease;

(CC) License, written notification that a community residential program or day program complies with department licensing requirements to serve individuals with mental illness, intellectual disabilities, and developmental disabilities;

(DD) Licensee, an individual, partnership, association, corporation, or governmental entity which has received a license or program license from the department to operate a community residential program or day program to provide services and sup-

ports for individuals with mental illness, intellectual disabilities, and developmental disabilities;

(EE) Mechanical supports, supportive devices used in normative situations to achieve proper body position and balance; these are not restraints;

(FF) Medication administration, qualified staff preparing and/or giving a legally prescribed individual dose of medication to an individual served, including observation and monitoring the individual's response to the medication;

(GG) Medication control, the process of physically controlling, transporting, storing, and disposing of medications, including medications self-administered by individuals served;

(HH) Medication use, the practice of handling, prescribing, and dispensing medication (including administering and observing self-administration) to persons served in response to specific symptoms, behaviors, and conditions for which the use of medication is indicated and deemed effective. This includes prescribed and sample medications and may, when required as part of the treatment regimen, include over-the-counter or alternative medication provided to persons served;

(II) Misuse of funds/property, as defined in 9 CSR 10-5.200, Report of Complaints of Abuse, Neglect, and Misuse of Funds/Property;

(JJ) Natural supports, provided by a person of the individual's choice to assist him or her in achieving personal goals and facilitating integration into their community. Natural supports are provided by persons who are not paid staff of an agency but may be initiated, planned, and facilitated in partnership with an agency;

(KK) Neglect, as defined in 9 CSR 10-5.200, Report of Complaints of Abuse, Neglect, and Misuse of Funds/Property;

(LL) Outcome, a specific measurable result of services/supports provided to an individual or identified target population;

(MM) Person-centered, services and supports developed in collaboration with the individual served that are respectful of informed consent and the preferences of the individual, resulting in a therapeutic alliance which contributes significantly to treatment/rehabilitation outcomes;

(NN) Physical abuse, as defined in 9 CSR 10-5.200, Report of Complaints of Abuse, Neglect, and Misuse of Funds/Property;

(OO) Probationary license, written authorization to continue service delivery for a specified period of time to enable a licensee to achieve compliance with the department's licensing requirements as set forth in a consent agreement between the department and the licensee;

(PP) Program license, written notification that a community residential program with a current license, temporary operating permit, or probationary license from the Department of Health and Senior Services (DHSS) under sections 198.006—198.096, RSMo, also meets the department's licensing requirements relative to admission criteria, care, treatment, and habilitation or rehabilitation needs of individuals served;

(QQ) Psychiatric crisis, an individual is exhibiting a substantial increase in symptoms related to a severe emotional disturbance or mental illness based upon his or her baseline functioning. The reason(s) why the crisis occurred and how it is expressed varies by individual and may include harm to self or others, disorientation, being out of touch with reality, compromised ability to function, or other expression of emotional distress not characteristic to the individual. Immediate clinical assessment and intervention is necessary to ensure the safety of the individual and others;

(RR) Psychiatric Individualized Supported Living (PISL), living environment where medically necessary services/supports are provided for one (1) to four (4) adults with serious mental illness who are transitioning from an inpatient psychiatric hospital to the community, or are at risk of returning to inpatient care due to their clinical status or need for increased support. This environment is most appropriate for individuals who—

1. Have intermittent difficulty tolerating other individuals in their immediate living area;

2. Require access to an individual bedroom to avoid psychiatric relapse, aggression, or other behaviors associated with a risk of re-hospitalization; and/or

3. Have substantial difficulties with activities of daily living and require round-the-clock observation and oversight; and/or

4. Require daily redirection from staff to avoid behaviors potentially harmful to themselves or others;

(SS) Qualified mental health professional (QMHP), any of the following:

1. A physician licensed under Missouri law to practice medicine or osteopathy and with training in mental health services or one (1) year of experience, under supervision, in treating problems related to mental illness or specialized training;

2. A psychiatrist licensed under Missouri law as a physician and who has successfully completed a training program in psychiatry approved by the American Medical Association, the American Osteopathic Association, or other training program identified as equivalent by the department;

3. A psychologist licensed under Missouri law to practice psychology with specialized training in mental health services;

4. A professional counselor licensed under Missouri law to practice counseling with specialized training in mental health services;

5. A clinical social worker licensed under Missouri law with a master's degree in social work from an accredited program and with specialized training in mental health services;

6. A psychiatric nurse licensed under Chapter 335, RSMo as a registered professional nurse with at least two (2) years of experience in a psychiatric or substance use disorder treatment setting or a master's degree in psychiatric nursing;

7. An individual possessing a master's or doctorate degree in counseling and guidance, rehabilitation counseling and guidance, vocational counseling, psychology, pastoral counseling, family therapy, or related field who has successfully completed a practicum or has one (1) year of experience under the supervision of a QMHP;

8. An occupational therapist certified by the National Board for Certification in Occupational Therapy, registered in Missouri, who has a bachelor's degree and has completed a practicum in a psychiatric setting or has one (1) year of experience in a psychiatric setting, or has a master's degree and has completed either a practicum in a psychiatric setting or has one (1) year of experience in a psychiatric setting;

9. An advanced practice registered nurse (APRN) under Chapter 335.016, RSMo, who has had education beyond the basic nursing education and is certified by a nationally recognized professional organization as having a nursing specialty, or who meets criteria for APRNs established by the board of nursing; or

10. A psychiatric pharmacist who is a registered pharmacist in good standing with the Missouri Board of Pharmacy who is a board-certified psychiatric pharmacist through the Board of Pharmaceutical Specialties, or a registered pharmacist currently in a psychopharmacology residency where the service has been supervised by a board-certified psychiatric pharmacist;

(TT) Reciprocal license, issued by the department to a residential program that has a current valid license as a Residential Treatment Agency for Children and Youth from the Department of Social Services under 13 CSR 35-71, if the applicant has applied for a license from the department and paid the application fee;

(UU) Research, as defined in 9 CSR 60-1.010;

(VV) Residential care facility (RCF), as defined in Section 198.006, RSMo;

(WW) Residential program, program in the community serving ten (10) or more individuals with intellectual or developmen-

tal disabilities by providing social support, health supervision, and habilitation training in skills of daily living;

(XX) Restraint, as defined in 9 CSR 10-7.140;

(YY) Safety crisis plan, as defined in 9 CSR 45-3.090 Behavior Supports;

(ZZ) Scheduled (controlled) medication, categories or schedules assigned to medication by the Drug Enforcement Administration based on a drug's acceptable medical use and the drug's abuse or dependency potential;

(AAA) Seclusion, involuntary confinement of an individual alone in a room or an area from which he/she is physically prevented from leaving or having contact with others;

(BBB) Self-administration of medication (adults), the application of a medication, (whether by injection, inhalation, oral ingestion, or any other means) by the individual served to his or her body, and may include the program storing the medication and staff handing the medication container to the individual at the time designated to take the medication;

(CCC) Sexual abuse, as defined in 9 CSR 10-5.200, Report of Complaints of Abuse, Neglect, and Misuse of Funds/Property;

(DDD) Staff (staff member, employee, personnel), paid employee or contractor providing services and/or supports on behalf of a licensed or deemed licensed program, on a full- or part-time basis, and has contact with individuals served by the program;

(EEE) Stock supply/stock pharmaceutical, prescription and non-prescription medication stored on-site for the provision of medication services by a program. Stock supplies are checked by qualified staff on a routine basis for expiration dates and reviewed annually by a pharmacy consultant and approved by the medical director or pharmacy technician;

(FFF) Substance use disorder, diagnostic term in the fifth edition of the *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)* referring to recurrent use of alcohol or other drugs that causes clinically and functionally significant impairment such as health problems, disability, and failure to meet major responsibilities at work, school, or home. Depending on the level of severity, this disorder is classified as mild, moderate, or severe. The document incorporated by reference does not include any later revisions or updates and is available from the American Psychiatric Association, 1000 Wilson Boulevard, Suite 1825, Arlington, VA 22209-3901;

(GGG) Supports, array of activities, resources, relationships, and services designed to assist an individual's integration into the community, participation in services/supports, improve functioning, and/or recovery and resiliency;

(HHH) Targeted case management, Medicaid program that assists individuals served by the Division of Developmental Disabilities (DD) to gain access to needed medical, social, educational, and other services;

(III) Temporary operating permit, written authorization from the department permitting a licensee seeking license renewal or a new owner applying for an initial license to continue service delivery pending completion of the licensing survey process and the applicant is not at fault for any delay in the process;

(JJJ) Time-out, temporarily separating a person from an environment where he or she has exhibited unacceptable behavior;

(KKK) Trauma, experiences that cause intense physical and psychological stress reactions. May refer to a single event, multiple events, or a set of circumstances experienced by an individual as physically and emotionally harmful or threatening and has lasting adverse effects on the individual's physical, social, emotional, or spiritual well-being;

(LLL) Treatment, a professionally recognized approach that applies accepted theories, principles, and techniques designed to achieve rehabilitative outcomes for individuals served;

(MMM) Verbal abuse, as defined in 9 CSR 10-5.200, Report of

Complaints of Abuse, Neglect, and Misuse of Funds/Property; and

(NNN) Volunteer, an unpaid person formally recognized by a program to provide direct services or supports to individuals it serves.

(3) Unless the context clearly indicates otherwise, certain terms shall be used in 9 CSR 40 as follows:

(A) Parent, the parent of a minor *[client or resident]* child unless his/her parental rights have been terminated, or the parent of an adult *[client or resident]* who consents to having the parent have access to or participate in the record or activity subject of a particular rule. The term *[should]* shall be disregarded if the *[client's or resident's]* individual's parents are deceased or have had their parental rights terminated; and

(B) Guardian, the person appointed by a Missouri court of competent jurisdiction to have the care, custody and control of the *[client or resident]* individual. The term *[should]* shall be disregarded if the *[client or resident]* individual has not had a guardian appointed.

[(4) Unless the context clearly indicates otherwise in 9 CSR 40—

(A) The use of any words in the plural includes the use in the singular and vice versa;

(B) The use of terms in the masculine gender includes the use in feminine gender and vice versa; and

(C) Time to perform an act required under this rule shall be computed by excluding the first day and including the last day, unless the last day is a holiday recognized by the state, a Saturday or Sunday, in which case the last day shall include the first day following the state holiday, Saturday or Sunday.]

AUTHORITY: sections 630.050, and 630.705, RSMo [1994] 2016. Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 14, 2020.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, or by courier within thirty (30) days after publication in the **Missouri Register**. If to be hand delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 1—Definitions [and Procedures], Licensing Procedures, and General Requirements for Community Residential Programs and Day Programs

PROPOSED AMENDMENT

9 CSR 40-1.055 Licensing Procedures. The department is amending the chapter title, purpose, and section (1), removing sections (2)-(23), and adding new sections (2)-(36).

PURPOSE: This amendment updates terminology and the application and licensing process for community residential programs and day programs.

PURPOSE: This rule [establishes procedures for applying for and obtaining a license] describes the application and licensing process for community residential programs and day programs subject to licensure from the department, including Residential Care Facilities (RCF) and Assisted Living Facilities (ALF) dually licensed by the Department of Health and Senior Services (DHSS).

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) As set out in section 630.705, RSMo, each community residential **[facility] program (hereafter referred to as residential program)** or day program serving **[the mentally retarded, developmentally disabled, mentally ill or mentally disordered] individuals with mental illness, intellectual disabilities, or developmental disabilities (IDD)** shall have a license or program license from the department unless specifically exempted under section 630.705.3., RSMo.

[(2) As set out in section 630.715.1., RSMo, the department shall accept a license, a temporary operating permit or a probationary license issued by the Department of Social Services under sections 198.006—198.096, RSMo except that a facility shall meet the department's requirements which are appropriate to admission criteria and care, treatment habilitation and rehabilitation needs, including adequate staffing.

(3) Applicants may only apply for licenses or program licenses on application forms provided by the department. Persons applying for the first time for a given premises shall submit with the application a drawing of the interior of the facility, in approximate scale, and a narrative indicating how each area in the facility will be used.

(4) The department does not require fees from community residential facilities or day programs which have three (3) or fewer residents or clients or from community residential facilities or day programs which are owned and operated by governmental entities. Applicants shall submit fees of ten dollars (\$10) for establishments having at least four (4), but less than ten (10), residents or clients and fifty dollars (\$50) for establishments having ten (10) or more residents or clients. The license fee is not refundable. The applicant shall pay the fee based on the total bed or day program capacity of its facility or premises and not the number of residents or clients in the facility or program.

(5) An application shall be active for no more than one (1) year. If the department does not issue a license or program license within one (1) year from the date of application, the applicant must submit a new application with fee, if necessary, to be considered for licensure.

(6) A license or program license is effective for one (1) year unless sooner revoked. At least one hundred twenty (120) days before the expiration of a license or program license, the department shall notify the licensee that an application is necessary for licensing for the next year after expiration

of its license.

(7) The licensee shall submit the application for a license for a succeeding year to the department at least ninety (90) days before the expiration date of its current license.

(8) If the licensee does not apply for a new license or program license within at least ninety (90) days before its expiration date, the department shall notify the facility or program that the community residential facility or day program would not be authorized under Missouri law to serve residents or clients without a license.

(9) If the department has not completed its survey before the expiration date of a current license or program license and if the applicant is not at fault for the failure to complete the survey process, the department shall grant a temporary operating permit for a specified period of time not to exceed ninety (90) days to complete the survey.

(A) The department shall consider a licensee seeking a license for a succeeding period to be at fault for reasons including, but not limited to, the following examples:

1. The licensee did not apply for a new license or program license at least ninety (90) days before the expiration date of either license;

2. The department found the licensee to be substantially out of compliance with its licensing requirements for community residential facilities or day programs and the head of the facility failed to achieve substantial compliance in accordance with section (12) of this rule; and

3. The licensee refused to allow survey or otherwise to cooperate with the licensing survey team.

(B) The department shall grant a temporary operating permit to authorize continuity of service to allow the department to evaluate any application for a license or program license submitted as a result of any change of community residential facility or day program ownership.

(C) A change in ownership shall be considered to have occurred under the following circumstances:

1. An individual licensee incorporates or forms a partnership and the individual does not retain a majority interest in the corporation or partnership formed;

2. With respect to a licensee which is a general partnership, a change occurs in the majority interest of the partners;

3. With respect to a licensee which is a limited partnership, a change occurs in the majority interest of the general partners or in the majority interest of limited partners; and

4. With respect to a licensee which is a corporation, a change occurs in the persons who own, hold or have the power to vote the majority of any class of stock issued by the corporation.

(10) The head of the facility shall cooperate with and assist authorized departmental representatives in making announced and unannounced surveys by allowing access to the facility or program premises and records.

(11) After receiving an application for either an initial or succeeding license or program license, a departmental licensing team shall inspect the community residential facility or day program by making one (1) or more site visits to the facility to assess compliance with the licensing requirements through interviews with facility employees and residents or clients, reviewing facility records and observing activities and physical conditions.

(A) At the end of each site visit, one (1) or more members of the licensing team shall conduct an exit interview with

the head of the facility or program regarding deficiencies noted during the survey.

(B) If the licensing team finds the facility or program to be in substantial compliance with the departmental requirements, the team shall recommend, within twenty (20) working days of completion of the survey, that the department issue a license or program license.

(C) After reviewing the recommendation of the licensing team, the director shall either issue a license or program license to the applicant or licensee or return the recommendation of the licensure team for further survey or other appropriate action.

(12) If the department finds an applicant or licensee at the survey to be out of substantial compliance with its requirements, the department shall take the following steps:

(A) The licensing team shall inform the head of the facility or program of the deficiencies in an exit interview;

(B) Within twenty (20) working days after the survey, the licensing team shall prepare a written report of any deficiency for which there has not been prompt remedial action and shall send a copy of the report to the head of the facility or program by certified mail, return receipt requested, stating separately each deficiency and the specific statute or rule violated;

(C) The licensing report shall be accompanied by a request for a plan of correction;

(D) Following receipt of the request for a plan of correction, the head of the facility or program shall submit, within twenty (20) working days, a plan of correction to the department survey team;

(E) In the plan of correction, the head of the facility or program shall address each of the deficiencies noted on the report of deficiencies by indicating action steps and time frames for achieving compliance;

(F) Following receipt of a plan of correction, the department has ten (10) working days to give its written approval or disapproval of the plan;

(G) Within fifty-five (55) working days of the survey(s) which gave rise to a request for a plan of correction, the department shall reinspect the facility or program to determine whether or not the facility or program has achieved substantial compliance with departmental standards within the time frames specified in the plan of correction.

1. If the licensing team finds the facility or program in substantial compliance, the department shall issue a license under section (11) of this rule.

2. If the licensing team does not find that the facility or program has achieved substantial compliance or that the head of the facility or program is correcting the noted deficiencies, in accordance with the approved plan of correction, the licensing team shall submit its finding and recommendations to the director, Bureau of Quality Improvement for a decision regarding license issuance, revocation or denial.

(H) The department shall deny the application for license as set out in section (17), invite the head of the facility or program to enter into a consent agreement for a probationary license as set forth in section (20), issue the license or request additional information or review;

(I) The department shall issue a notice of noncompliance as set out in section 630.745, RSMo if the licensee or applicant is out of compliance with departmental requirements and the licensee or applicant is not found to be implementing its approved plan of correction; and

(J) If new applicants who are not licensed by the department and do not currently serve persons for whom licensure is required fail to correct deficiencies, submit a plan of correction, or cooperate with the licensure process, a license

will not be formally denied. The application will be allowed to expire and considered withdrawn.

(13) The department shall issue a license or program license to an applicant or licensee the department finds to be in compliance with the provisions of sections 630.705—630.760, RSMo and the department's rules.

(14) The department shall issue a license or program license only for the premises and the individual, partnership, association, corporation or governmental entity named on the application. The license shall be valid for a single community residential facility or day program and shall not be valid for two (2) or more facilities or programs, located on different premises even though they are operated by a single agency.

(15) The head of the facility shall post the facility or program license in a conspicuous place on the premises.

(16) The department may conduct reinspections during a licensure year to determine compliance with its requirements. If the reinspections find a residential facility or program to be out of substantial compliance with departmental requirements, the department may revoke the license or program license if the facility or program does not achieve compliance under the process set out in section (12).

(17) The department shall deny an application for license or program license to a facility or program already licensed, revoke an existing license or program license or deny a license or program license to a new applicant if the department finds substantial failure to comply with sections 630.705—630.760, RSMo and corresponding rule, and if applicant or licensee has failed to submit, implement, or both, an approved plan of correction as described in section (12).

(A) Prior to the formal notice of license denial or revocation, the director, Bureau of Quality Improvement, will give notice of the intent to deny and the reasons for denial to the head of the facility or program and that the head of the facility or program, within ten (10) days of the receipt of the notice, may request a review by the department's hearing officer. The review shall occur within fifteen (15) days of the request for the review by the head of the facility or program.

(B) The review by the department under subsection (17)(A) of this rule shall not be available in cases in which a license was denied or revoked due to substantiated abuse or neglect pursuant to 9 CSR 40-2.035.

(C) A notice of license revocation or denial shall become effective not less than thirty (30) days from the date of mailing by certified or registered mail (return receipt requested) or of personal service of the notice upon the licensee. The department shall state the effective date in the notice.

(D) The notice of revocation or denial shall inform the applicant or licensee of the right to seek a determination of the revocation or denial by the Administrative Hearing Commission as set out in section 161.272, RSMo and also of the right to stay the department's action pending the determination under rules promulgated by the Administrative Hearing Commission unless, upon application of the department, the commission finds that continued operation before final determination by the commission would present an imminent danger to the health, safety or welfare of any resident or client or substantial probability that death or serious injury would result.

(18) Any person aggrieved by the action of the department to deny or revoke a license or program license may seek a

determination of the department director's decision by the Administrative Hearing Commission as set out in section 161.272, RSMo and the rules of the commission.

(19) The head of the facility or program at any time during the inspection process may withdraw, either orally or in writing, an application for a license or program license.

(20) At any time after an inspection is conducted, the head of the facility or program may choose to enter into a consent agreement with the department to obtain a probationary license. The consent agreement shall include a provision that the head of the facility or program shall voluntarily surrender the license if substantial compliance is not reached in accordance with the terms and deadlines established under the agreement. The agreement shall specify the stages, actions and time schedule to achieve substantial compliance.

(21) As set out in section 630.750, RSMo, if the departmental licensing survey team finds upon survey of a licensed residential facility or day program that the facility or program is not in compliance with any standard, the continuation of which noncompliance presents an imminent danger to the health, safety or welfare of a resident or client or a substantial probability that death or serious physical harm would result and the noncompliance is not immediately corrected, the department director shall issue the facility or program a notice of noncompliance and initiate the procedures set out in subsections (12)(C)—(G) of this rule to deny or revoke the facility's or program's license.

(22) If compliance with any standard is medically contraindicated for any resident or client, the head of the facility or program shall submit a written statement to the licensing office indicating why and for how long compliance with the standard will not be possible. The request shall be signed by a physician and by the members of the resident's or client's multidisciplinary team.

(23) The director, Bureau of Quality Improvement, at his/her discretion, may waive a licensing rule for a specified period of time, or make an exception to a rule, if the head of the facility or program provides evidence that a waiver or exception is in the best interests of residents or clients. Each request for waiver or exemption shall be addressed to Director, Bureau of Quality Improvement, P.O. Box 687, Jefferson City, MO 65102.]

(2) The department issues the following types of licenses:

(A) A license to operate a day program when the program serves individuals with a diagnosed mental illness or IDD;

(B) A license to operate a residential program, including a group home or family living arrangement, when individuals with a mental illness or IDD diagnosis are being served in the program;

(C) A program license to a residential program that is licensed under Chapter 198, RSMo, as a Residential Care Facility (RCF) or Assisted Living Facility (ALF) that serves any individual with an IDD or a majority of individuals with a mental illness diagnosis; and

(D) A reciprocal license to a residential program licensed by the Department of Social Services (DSS) as a Residential Treatment Agency for Children and Youth.

(3) Residential programs and day programs located at the same physical address, but separately licensed by the department, may share staff as long as each program independently meets applicable staffing requirements for the population being served.

(4) A day program that is part of a Community Psychiatric Rehabilitation (CPR) program and is certified or deemed certified by the department under 9 CSR 10-7.130 and 9 CSR 30-4, will not be separately licensed by the department's Office of Licensure and Certification.

(5) An agency or individual may request to be licensed by completing an application as required by the department for this purpose and submitting the application and other documentation as specified. Completed applications must be mailed to: Department of Mental Health, Office of Licensure and Certification, PO Box 687, Jefferson City, MO 65102, fax (573) 751-7815, or emailed to: DMH-OLC@dmh.mo.gov.

(6) An application for an initial license must be submitted not less than thirty (30) days prior to the opening date for a new residential program or day program. The application must be approved by department staff prior to a Division of Fire Safety inspection or department license inspection being scheduled. A diagram of the interior of the building(s), in approximate scale, and a narrative indicating how each area of the building will be used is required for first-time applicants.

(A) Prior to new construction, remodeling an existing structure(s), or any structural alterations to an existing building, a copy of the plans must be submitted to the Office of Licensure and Certification for review and approval, including an explanation for utilizing each area of the building. The architect or contractor shall certify in writing the plans are in compliance with these licensing regulations.

1. Construction shall not begin until the plans have been reviewed and approved by the Division of Fire Safety. All plans for new construction, remodeling, and additions must comply with the 2010 *Americans with Disabilities Act Standards for Accessible Design*, hereby incorporated by references and is published by and available from the U.S. Department of Justice, Civil Rights Division, 950 Pennsylvania Avenue NW, Washington, DC 20530, available at: <https://www.ada.gov/regs2010/2010ADAStandards/2010ADAstandards.htm>. This rule does not incorporate any subsequent amendments or additions to the regulations listed above. This rule does not prohibit programs from complying with regulations set forth in newer versions of the incorporated by reference material listed in this paragraph of this rule.

2. During the construction or remodeling process, an inspection of the framing, wiring, and rough-in wiring for the fire alarm system must be conducted by the Division of Fire Safety before the walls are enclosed. Failure to have these inspections constitutes cause for disapproval by the Division of Fire Safety.

3. An existing residential program or day program shall not increase the capacity of any room or total capacity of any building without meeting new construction requirements as specified in this rule.

(7) The department issues a license to operate a residential program or day program serving any individual with an IDD or a majority of individuals with a mental illness if the applicant—

(A) Has applied for a license from the department and paid the application fee;

(B) Has not had a license or program license denied or revoked by the department; and

(C) Is in compliance with applicable state laws and regulations, including the regulations established by the department pursuant to section 630.710, RSMo.

(8) The department will issue a program license to a residential program that has a current, valid license from the Department of Health and Senior Services (DHSS) under Chapter 198, RSMo, as an ALF or RCF when the program serves any individual with

an IDD or a majority of individuals with a mental illness, if the applicant—

(A) Has applied for a license from the department and paid the application fee;

(B) Has not had a license or program license denied or revoked by DHSS or the department; and

(C) Is in compliance with applicable state laws and department licensing regulations as specified in 9 CSR 40-1.060 Program Administration and 9 CSR 40-1.075 Person-Centered Services.

(9) The department will issue a reciprocal license to a residential program that has a current valid license as a Residential Treatment Agency for Children and Youth from the DSS under 13 CSR 40-71, if the applicant has applied for a license from the department and paid the application fee.

(A) The department delegates its survey authority to the DSS, Children's Division, for compliance with licensing rules as a Residential Treatment Agency for Children and Youth under 13 CSR 40-71.

(10) The department recognizes and deems as licensed any residential program that is—

(A) An Intermediate Care Facility (ICF) for Individuals with Intellectual Disabilities (ICF/IID) certified under Title XIX of the Social Security Act, 42 U.S.C. section 1396, and the regulations contained in 42 CFR part 442, as long as the facility remains certified; and

(B) An ICF or Skilled Nursing Facility (SNF) licensed under Chapter 198, RSMo, and certified under Title XIX of the Social Security Act, 42 U.S.C. section 1396, and the regulations contained in 42 CFR part 442, as long as the facility remains certified.

(C) The department does not issue a license to a residential program that meets the criteria for deemed status as specified in this section of this rule.

(11) The department recognizes and deems as licensed a residential program or day program that maintains accreditation from CARF International, The Council on Quality and Leadership, The Joint Commission, or other accrediting body recognized by the department.

(A) Accredited agencies must—

1. Submit a copy of the accrediting body's survey report to the department within thirty (30) days of receipt, including verification of the accreditation time period and programs/services that are accredited;

2. Notify the department of any investigation by the accrediting body related to a complaint;

3. Notify the department of any changes in accreditation status during the time period of accreditation and resurvey; and

4. Ensure they are compliant with all department licensing regulations pertaining to service delivery and fire safety.

(B) Deemed status may be revoked by the department if an agency fails to comply with the requirements outlined in paragraph (11)(A)1.-4. of this rule.

(C) The department does not issue a license to an agency that meets the criteria for deemed status as specified in this section of this rule.

(12) Agencies that are deemed as licensed by the department are not exempt from monitoring of service delivery practices, individual safety, or environmental conditions through other functions conducted by the department.

(13) License fees are as follows and must be included with the individual/agency's application for licensure from the department:

(A) Ten dollars (\$10) for residential programs and day programs that admit more than three (3) but less than ten (10) individuals;

(B) Fifty dollars (\$50) for residential programs and day programs that admit ten (10) or more individuals;

(C) The fee is based on the total available capacity of the residential program or day program, not the number of individuals currently being served. The license fee is non-refundable; and

(D) The license fee does not apply to residential programs or day programs applying for a licensed capacity of three (3) or fewer individuals or to residential programs or day programs owned and operated by a government entity.

(14) The department considers an application for licensure to be active for no more than one (1) year. If the department does not issue a license or program license within one (1) year from the date of application, the applicant must submit a new application with the applicable fee, if necessary, to be considered for licensure.

(15) A license is issued for a period of one (1) year unless it is revoked by the department prior to the expiration date. The department provides each licensee with a renewal notice at least one hundred twenty (120) business days prior to expiration of the existing valid license.

(16) The licensee shall submit the application for a license for a succeeding year to the department at least ninety (90) days before the expiration date of its current license.

(17) If the licensee does not apply for a renewal license within at least ninety (90) business days before the expiration date of the license, the department will notify the director of the program that it is not authorized under Missouri law to serve individuals with mental illness or IDD without a license.

(18) If an application for a license is not submitted to the department at least thirty (30) business days prior to the expiration of an existing valid license, department staff will notify the program director that the program will not be licensed after the expiration date of the license. A copy of the letter will be provided to applicable areas of the department and to any state or local government agencies with the potential to be affected by the program's non-licensed status.

(19) If the department has reasonable grounds to believe a residential program or day program required to be licensed under sections 630.705–630.760, RSMo, is operating without a license, the department will attempt to investigate to determine whether a license is required. If department staff are not permitted access to inspect the program, or if the program director refuses to permit access for an inspection, the department will apply to the circuit court of the county in which the program is located for an order authorizing entry for such inspection.

(20) If the department has not completed its license inspection before the expiration date of a current license and the applicant is not at fault for the delay, a temporary operating permit, not to exceed ninety (90) days, will be issued by the department in order to complete the survey.

(A) An applicant seeking license renewal is at fault for reasons including, but not limited to:

1. The licensee did not apply for a new license or program license at least thirty (30) days prior to the expiration date of the existing license;

2. The department found the licensee to be out of compliance with its licensing requirements and the director of the pro-

gram failed to achieve compliance prior to expiration of the license; and/or

3. The licensee refused to allow a license inspection by the department or otherwise to cooperate with the licensing survey team.

(21) The department considers a change in agency ownership to have occurred under any of the following circumstances:

(A) An individual licensee incorporates or forms a partnership;

(B) A change in the majority interest of the partners, with respect to a licensee which is a general partnership;

(C) A change in the majority interest of the general partners or in the majority interest of limited partners, with respect to a licensee which is a limited partnership; or

(D) A change in the person(s) who owns, holds, or has the power to vote the majority of any class of stock issued by the corporation, with respect to a licensee which is a corporation.

(22) The department may grant a temporary operating permit for a specified period of time, not to exceed ninety (90) business days, under the following circumstances:

(A) To authorize continuity of services and allow department staff to evaluate an application for a license or program license as a result of any change in ownership of a residential program or day program; or

(B) To determine compliance with applicable state laws and regulations, including the standards established by the department pursuant to section 630.710, RSMo, if the applicant—

1. Has applied for a license and paid the appropriate application fee;

2. Has not had a license or program license denied or revoked by the department; or

3. Is licensed by DHSS as defined in Chapter 198, RSMo, as an ALF or RCF, if applicable.

(23) Each application for licensure must include the name and contact information of the director of the agency and the staff person in charge of administration of the residential program or day program.

(24) The director of the residential program or day program shall cooperate with and assist authorized department staff or its representatives in making announced and unannounced licensing surveys by allowing access to the program's premises, records, staff, and individuals served.

(25) After receiving a complete application for an initial license or renewal license, department staff will conduct an on-site inspection of the residential program or day program to assess compliance with these licensing regulations. This may include, but is not limited to, interviews with agency and/or program staff and individuals served, a review of agency records, and observation of program activities and environmental conditions.

(A) At the conclusion of the on-site license inspection, department staff will hold an exit conference with the program director and other relevant staff to discuss results of the inspection.

(B) If the department determines the program is in compliance with the provisions of sections 630.705 through 630.760, RSMo, and these licensing regulations, a license or program license will be issued.

(26) If the department determines an applicant or existing licensee is not in compliance with these licensing regulations at the time of the inspection, the applicant will be notified as follows:

(A) The program director will be informed of the area(s) of noncompliance during the exit conference with department staff;

(B) Within twenty (20) business days after completion of the on-site license inspection, will be sent to the program director explaining the area(s) of non-compliance;

(C) The licensing report will require the program director to submit a plan of correction to the department within twenty (20) business days of receipt;

(D) The plan of correction shall address each deficiency cited in the report and include action steps and time frames for achieving compliance, including:

1. How program staff will identify individuals served, other staff, and/or maintenance areas potentially affected by the deficient practice(s);

2. How program staff will monitor corrective action taken, including measures or systemic changes to ensure the deficient practice(s) do not reoccur;

3. The date when full compliance with licensing regulations will be achieved; and

4. The staff person(s) responsible for implementing the plan of correction in the program;

(E) Within ten (10) business days following receipt of the program's plan of correction, the department will issue written approval or disapproval of the plan to the program director;

(F) Department staff will reinspect the program within sixty (60) business days after the original inspection to determine if deficiencies are being corrected as required in the approved plan of correction or any subsequent authorized modification. The reinspection may be conducted through a desk audit at the department's discretion.

1. If the department determines the program is in compliance with licensing regulations, a license will be issued to the program.

2. If the department determines the program has not achieved compliance with licensing regulations or the program director is not correcting the noted areas of non-compliance in accordance with the approved plan of correction, the department will issue written notice of noncompliance to the program director by certified mail/return receipt requested;

(G) The notice of noncompliance will inform the program director that the department may seek the imposition of any of the sanctions and remedies provided for in section 630.755, RSMo, or any other action authorized by law; and

(H) The program director may choose to enter into a consent agreement with the department to obtain a probationary license. The consent agreement will include a provision that the program director shall voluntarily surrender the license if compliance is not reached in accordance with the terms and deadlines established under the consent agreement. The agreement will specify the stages, actions, and time span to achieve compliance with licensing regulations.

(27) New applicants not licensed by the department and not currently serving individuals with mental illness or IDD that fail to correct a deficiency(ies) and submit a plan of correction or otherwise cooperate with the licensing process, will not be formally denied a license. The application will be allowed to expire and considered withdrawn.

(28) The department license is issued for the residential program or day program location and the individual, partnership, association, corporation, or governmental entity named on the application. The license is not valid for programs operated by the same agency that are located on different premises.

(29) The license issued by the department to the day program or residential program must be posted in a conspicuous place on the premises.

(30) The department maintains a directory of all licensed resi-

dential programs and day programs and posts the directory on its public website.

(31) The department or its authorized representatives may conduct announced or unannounced inspections during a licensure year to determine compliance with its licensing regulations in identified areas of focus. If the residential program or day program is found to be out of compliance with department licensing requirements, the license or program license will be revoked if the program does not achieve compliance as specified by the department.

(32) The department may deny a new application or a renewal application for licensure or revoke an existing license if a residential program or day program fails to comply with sections 630.705–630.760, RSMo, and corresponding licensing regulations and fails to submit and/or implement an approved plan of correction as described in section (26) of this rule.

(A) Prior to the formal notice of license denial or revocation, the department will send a written notice of its intent to deny/revoke and the reasons for such action to the program director by certified mail/return receipt requested. The program director shall have ten (10) business days from the date of receipt to request a review by the department's hearing administrator. The review shall occur within fifteen (15) business days of the department's receipt of the request for a hearing from the program director.

(B) The review by the department's hearing administrator is not applicable when a license was denied or revoked due to substantiated abuse, neglect, or misuse of funds/property pursuant to 9 CSR 10-5.200, 9 CSR 10-5.206, and 19 CSR 30-88.010.

(C) The written notice of license revocation or denial shall be effective not less than thirty (30) business days from the date of mailing by certified mail/return receipt requested or of personal service of the notice upon the licensee. The effective date of license revocation or denial will be included in the department's notice to the program director.

(D) The notice of revocation or denial shall inform the applicant or licensee of the right to seek a determination of the revocation or denial by the Administrative Hearing Commission as set out in sections 621.045, 621.189, and 621.193, RSMo, and the right to stay the department's action pending the determination under rules promulgated by the Administrative Hearing Commission unless, upon application of the department, the commission finds that continued operation before final determination by the commission would present an imminent danger to the health, safety, or welfare of any individual, or likelihood that death or serious injury would result.

(E) The department will notify DHSS and DSS within ten (10) business days of revoking or denying a program license.

(33) As set out in section 630.750, RSMo, if the department finds a licensed residential program or day program is not in compliance with any licensing regulation(s) which presents either an imminent danger to the health, safety, or welfare of any individual or a substantial probability that death or serious physical harm would result, and the area(s) of noncompliance is not immediately corrected, the department director shall issue a notice of noncompliance to the program director and initiate the procedures set out in section (32) of this rule to deny or revoke the program's license.

(34) The director of a residential program or day program may withdraw an application for a license or program license any time during the inspection process by submitting written notification to the department attesting it does not meet the criteria for licensing.

(35) At any time after a department licensing inspection is conducted, the director of a residential program or day program may choose to enter into a consent agreement with the department to obtain a probationary license. The consent agreement shall include a provision that the program director shall voluntarily surrender the license if compliance is not reached in accordance with the terms and deadlines established under the agreement. The agreement shall specify the actions and time schedule to achieve compliance with these licensing regulations.

(36) A residential program or day program may ask for a waiver of a licensing requirement(s) by submitting a request to the department's Exceptions Committee as specified in 9 CSR 10-5.210.

AUTHORITY: sections 630.050, 630.135, and 630.705, RSMo [1994] 2016. Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. For intervening history, please consult the Code of State Regulations. Amended: Filed May 14, 2020.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 1—Definitions, Licensing Procedures, and
General Requirements for Community Residential
Programs and Day Programs

PROPOSED RULE

9 CSR 40-1.060 Program Administration

PURPOSE: This rule specifies the administrative requirements for all community residential programs and day programs subject to licensure by the department in accordance with 9 CSR 40-1.055, including Residential Care Facilities (RCF) and Assisted Living Facilities (ALF) dually licensed by the Department of Health and Senior Services (DHSS).

(1) Director. Each community residential program and day program shall have a chief administrative officer/program director who shall—

(A) Be empowered to make decisions regarding the operation of the program;

(B) Delegate a staff person who is empowered to act for him/her when absent from the program; and

(C) Report any change in the ownership, management, or administration to the department within five (5) days.

(2) Licensing. The director shall ensure the program maintains a license in good standing with the Department of Health and Senior Services (DHSS) as specified in 9 CSR 40-1.055, subsection (2)(C),

if applicable.

(3) Policies and Procedures. A policy and procedure manual shall be maintained on site which promotes compliance with these licensing regulations and other federal, state, and/or local regulations applicable to the program.

(A) The director shall ensure the policies and procedures are followed by staff and are readily available for review by all employees, department staff, and other authorized representatives. The policy and procedure manual shall include, but is not limited to:

1. A description of program goals, mission, purpose, services, and costs;

2. The number, characteristics, and needs of individuals served, including how the program is specifically designed to support those needs;

3. Admission, discharge, and transfer of individuals served which ensures—

A. The program does not admit, nor keep in residence, any person whose needs exceed its provisions for care, support, and program functions;

B. Each individual admitted is able to function safely within the physical environment of the program;

C. Individuals admitted to an adult residential program or day program are at least eighteen (18) years of age; and

D. The program does not admit more individuals than its licensed capacity;

4. Rights, responsibilities, and grievance procedures in accordance with 9 CSR 40-1.065;

5. Provisions for an organized record system in accordance with 9 CSR 40-1.070;

6. Delivery of person-centered services in accordance with 9 CSR 40-1.075;

7. Dietary services in accordance with 9 CSR 40-1.080;

8. Use and storage of firearms and ammunition in accordance with 9 CSR 40-1.085 subsection (12)(A);

9. Environmental safety and maintenance in accordance with 9 CSR 40-1.085;

10. Fire safety and emergency preparedness in accordance with 9 CSR 40-1.090;

11. Background screening process in accordance with 9 CSR 10-5.190;

12. Reporting of complaints of abuse, neglect, and misuse of funds/property in accordance with 9 CSR 10-5.200 and 9 CSR 10-5.206;

13. Research in accordance with 9 CSR 60-1.010;

14. The care and maintenance of pets, including documentation of all applicable vaccinations and health statements in accordance with local and state regulations; and

15. Employee policies and procedures including, but not limited to:

A. Orientation process;

B. Health and safety practices, use of tobacco products, illegal and legal substances brought into the program, prescription medication brought into the program, and weapons brought into the program; and

C. Confidentiality of individual records and information.

(B) Policies and procedures shall clearly state that an individual receiving services cannot supervise or discipline another individual who is receiving services.

(C) Business activities shall not be allowed on the premises of the program other than those authorized by the department as consistent with the health, welfare, and safety of individuals served and as compatible with the integrity of the program.

(4) Staffing and Training. Staff shall be available in sufficient numbers to provide necessary and beneficial services/supports and possess the training, experience, and credentials to effectively perform their assigned duties.

(A) All employees shall complete orientation and training within the first thirty (30) days of employment in order to be knowledgeable of their job duties including, but not limited to:

1. An overview of the population served, program goals, mission, policies, and procedures;
2. Respective job assignment(s) and related duties;
3. Regulations regarding individual rights, confidentiality, duty to warn, and reporting alleged abuse, neglect, and misuse of funds/property of individuals served in accordance with 9 CSR 10-5.200, 9 CSR 10-5.206, and 19 CSR 30-88.010; and
4. Emergency and evacuation policies and procedures, including protocol to be followed when accompanying individuals in the community.

(B) Staff who are promoted or transferred to a new job assignment(s) shall receive training and orientation on their new responsibilities within thirty (30) days of actual transfer to the new assignment.

(C) A new employee shall not be assigned sole responsibility for implementation of an individual support plan (ISP), individual treatment plan (ITP), or care plan until his or her training and orientation have been completed.

(D) Each employee providing direct services and/or supports shall participate in annual in-service training including, but not limited to:

1. Emergency and evacuation policies and procedures;
2. Individual rights;
3. Infection control procedures;
4. Reporting of abuse, neglect, and misuse of funds/property in accordance with 9 CSR 10-5.200, 9 CSR 10-5.206, and 19 CSR 30-88.010; and
5. Specialized training to meet the needs of individuals served.

(E) Records of attendance and documentation of successful completion of all training and orientation must be documented in a centralized location and/or each employee's personnel record, including the trainee's name, topic, date(s), length of time or training, and instructor(s) name, title, credentials, and signature.

(5) Volunteers. If the program uses volunteers to provide services and/or supports, written policies and procedures shall be implemented to guide the roles and activities of volunteers in an organized and productive manner. Volunteers shall be qualified to deliver the services and/or supports provided, have a background screening in accordance with 9 CSR 10-5.190, and receive orientation, training, and adequate supervision.

(A) Orientation shall occur within thirty (30) days of the individual's volunteer work with the program including, but not limited to:

1. An overview of the population served, program goals, mission, policies, and procedures;
2. Regulations regarding individual rights, confidentiality, duty to warn, and reporting alleged abuse, neglect, and misuse of funds/property of individuals served in accordance with 9 CSR 10-5.200, 9 CSR 10-5.206, and 19 CSR 30-88.010;
3. Emergency and evacuation policies and procedures, including protocol to be followed when accompanying individuals in the community; and
4. Other topics relevant to their assignment(s).

(6) Emergency Planning. The policies and procedures for emergency situations shall include instructions for staff and individuals served including, but not limited to:

(A) Medical emergencies, including response to an incapacitated person, protocol for initiating a 911 emergency call, and use of cardiopulmonary resuscitation (CPR) and First Aid.

1. Drills shall be conducted at least quarterly for staff involved in the 911 protocol and administration of CPR and first aid.
2. Trained staff shall be available in sufficient numbers to respond to emergency situations and provide first aid and CPR, when necessary. At least one (1) trained staff person shall be on duty in the program twenty-four (24) hours per day, seven (7) days per week. Depending on the configuration of the building and number of indi-

viduals being served, more than one (1) trained staff person per shift may be required.

A. Staff must maintain current First Aid and CPR certification for healthcare providers through training that includes hands-on practice and in-person skills. Training provided solely online is not acceptable;

- (B) Natural disasters, such as a fire or tornado;
- (C) Bomb threats;
- (D) Utility failure;
- (E) Violent or threatening situations;
- (F) Elopements;
- (G) Behavioral crisis;
- (H) Psychiatric crisis;
- (I) Death of an individual served;
- (J) Arrest or detention of an individual served;
- (K) Use of cellular phones during an emergency; and
- (L) Infectious or contagious disease.

1. Policies and procedures for the prevention, containment, and reporting of infectious and contagious diseases shall be established in accordance with DHSS communicable disease regulations as specified in 19 CSR 20-20, available at: <https://sl.sos.mo.gov/cmsimages/adrules/csr/current/19csr/19c20-20.pdf>.

2. Any employee or volunteer diagnosed or suspected of having a contagious or infectious disease shall not work with individuals served or in dietary service until a written statement is obtained from a healthcare provider indicating the disease is no longer contagious or is found to be noninfectious.

(7) Emergency Safety Interventions. Written policies and procedures shall be implemented to prevent and respond to disruptive behavior, a behavioral crisis, or a psychiatric crisis that may occur with individuals served, staff, visitors, and others. All efforts shall be made to minimize re-traumatization of persons served or others involved in a disruptive situation, including consideration as to whether the program is suitable to meet the individual's needs.

(A) Policies and procedures shall indicate whether time-out, seclusion, and restraint are used in the program. If such interventions are used, policies and procedures shall include, but are not limited to:

1. Staff authorized to order, apply, and monitor their use;
2. Protocol for their use with individuals served;
3. Time limits for such orders;
4. Duration of such orders;
5. Incorporation of such orders in the ISP, ITP, or care plan of the individual served; and
6. Documentation of such orders in the individual record.

(B) Programs may prohibit by policy and practice the use of time-out, seclusion, and restraint and must implement policies and procedures to address disruptive behaviors and behavioral and psychiatric crises.

(C) All policies and procedures must be—

1. Approved by the board of directors, as applicable;
2. Available to all program staff and service providers;
3. Available to individuals served and parents/guardians, family members, and other natural supports, as appropriate;
4. Developed with input from individuals served and, whenever possible, parents/guardians, family members, and other natural supports; and
5. Consistent with department regulations regarding individual rights.

(D) All staff and volunteers having direct contact with individuals served shall receive documented initial and ongoing competency-based training on evidence-based and best practice interventions for preventing disruptive behaviors, behavioral crises, and psychiatric crises and addressing them in the least restrictive manner if they occur.

(E) All programs shall prohibit by policy and practice—

1. Aversive conditioning of any kind—the application of startling, unpleasant, or painful stimulus or stimuli that have a potentially harmful effect on an individual in an effort to decrease maladaptive

behavior;

2. Withholding of food, water, or bathroom privileges;
3. Painful stimuli;
4. Corporal punishment (such as use of pepper spray, mace, Taser, stun gun);
5. Techniques that obstruct an individual's airway or impairs breathing;
6. Techniques that restrict an individual's ability to communicate;
7. Use of time-out or other disciplinary action for staff convenience; and

8. Chemical restraints—use of a medication to sedate or limit an individual's ability to participate in services/supports rather than treat the symptoms of his or her behavioral health disorder or IDD as prescribed and specified in the ISP, ITP, or care plan. Medication used as prescribed and as indicated in the individual's plan to treat symptoms of a behavioral health disorder or IDD, including aggressive behavior, is not considered a chemical restraint.

(F) Preventive strategies including, but not limited to, de-escalation, changes to the physical environment (time-away), redirection, and active listening shall be employed to moderate potentially aggressive behavior.

(G) Seclusion and restraint shall only be used when an individual's behavior presents an immediate risk of danger to themselves or others and no other safe or effective treatment intervention is possible. These measures shall only be implemented when alternative, less restrictive interventions have failed or cannot be safely implemented. Seclusion and restraint are never used as treatment interventions. They are emergency/security measures to maintain safety when all other less restrictive interventions are inadequate.

(H) The use of seclusion or restraint shall be in accordance with the order of the program's attending physician or clinical director. Staff shall notify the attending physician or clinical director at the earliest possible time when a situation has a significant likelihood of leading to seclusion or restraint. If seclusion or restraint is initiated prior to obtaining an order, staff must obtain an order immediately.

(I) Standing or *pro re nata* (PRN) orders for seclusion or restraint are not allowed.

(J) Orders for seclusion or restraint shall be individualized to each event, define specific time limits, and be ended at the earliest possible time. Orders shall not exceed four (4) hours for adults, two (2) hours for children/youth age nine (9) to seventeen (17), and one (1) hour for children under age nine (9). If there is a need for continuing seclusion or restraint beyond the time limits specified herein, the attending physician or clinical director must write a new order for seclusion or restraint.

(K) Seclusion and restraint shall only be implemented by staff who are trained and competent in the proper techniques for administering/applying the form of seclusion or restraint ordered, and for providing ongoing monitoring and assessment of individuals for their safety and well-being. At a minimum, documented initial and ongoing training shall include:

1. Techniques to identify individual behaviors, events, and environmental factors that may trigger circumstances requiring the use of seclusion or restraint;
2. The use of nonphysical intervention skills;
3. Choosing the least restrictive intervention based on an individualized assessment of the individual's medical and/or behavioral status or condition;
4. The safe application and use of all types of seclusion or restraint used by the program, including how to recognize and respond to signs of physical and psychological distress;

5. Clinical identification of specific behavioral changes that indicate restraint or seclusion is no longer necessary;

6. Monitoring the physical and psychological well-being of the individual who is secluded or restrained, including, but not limited to, respiratory and circulatory status, skin integrity, vital signs, and any special requirements specified in the program's policies and procedures associated with face-to-face evaluations; and

7. The use of first aid techniques and certification in CPR, including required periodic recertification.

A. Staff administering seclusion or restraint shall receive annual training and demonstrate competence on the particular intervention(s) ordered and used in the program.

(L) Mechanical supports are not considered restraints.

(M) While an individual is being secluded or restrained, trained staff shall continually observe and assess him or her to assure appropriate care and treatment including, but not limited to:

1. Attention to vital signs;
2. Need for meals and liquids;
3. Bathing and use of the restroom; and
4. Need for seclusion or restraint to continue.

(N) Documentation of an order for seclusion, restraint, or time-out shall be placed in the individual record as soon as possible after the occurrence and include, but not be limited to:

1. Reason for the intervention;
2. Staff who ordered the intervention;
3. Type of intervention used;
4. Starting and ending time;
5. Regular observations of the individual including any resulting injuries or other issues as a result of the intervention;
6. Notification of parent/guardian, as applicable;
7. Notification of healthcare provider, as applicable; and
8. Modifications to the ISP, ITP, or care plan as a result of the intervention.

(O) The program's clinical director and/or performance improvement coordinator shall review every episode of seclusion, restraint, or time-out to ensure policies and procedures were followed and to identify any areas needing improvement. A written report on the program's overall use of these interventions, including progress made in reduction of their use, shall be prepared at least annually and reviewed by administrative leadership of the organization/program.

(8) Behavior Support Plans. Behavior support plans shall be developed as specified in 9 CSR 10-7.060 and 9 CSR 45-3.090.

AUTHORITY: sections 630.050 and 630.705, RSMo 2016. Original rule filed May 14, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH

Division 40—Licensing Rules

Chapter 1—Definitions, Licensing Procedures, and General Requirements for Community Residential Programs and Day Programs

PROPOSED RULE

9 CSR 40-1.065 Individual Rights and Responsibilities

PURPOSE: This rule specifies the rights and responsibilities of individuals receiving services in a community residential program or day

program subject to licensure by the department in accordance with 9 CSR 40-1.055, including Residential Care Facilities (RCF) and Assisted Living Facilities (ALF) dually licensed by the Department of Health and Senior Services (DHSS).

(1) Each individual receiving services is entitled to the following without limitations:

- (A) To humane care and treatment;
- (B) To medical care and treatment in accordance with the highest standards accepted in medical practice to the extent available at the community residential program or day program;
- (C) To safe and sanitary housing;
- (D) To not participate in nontherapeutic labor;
- (E) To attend or not to attend religious services;
- (F) To receive prompt evaluation, care, treatment, and rehabilitation about which he/she is informed insofar as he/she is capable of understanding;
- (G) To be treated with dignity as a human being;
- (H) To not be the subject of experimental research without his/her prior written and informed consent or that of his/her parent or guardian, and to decide not to participate or withdraw from any research at any time, for any reason;
- (I) To have access to consultation with a private physician at his/her own expense;
- (J) To be evaluated, treated, or habilitated in the least restrictive environment;
- (K) To not be subjected to any hazardous treatment or surgical procedure unless the individual or his/her parent or guardian consents, or unless such treatment or surgical procedure is ordered by a court of competent jurisdiction;
- (L) In the case of hazardous treatment or irreversible surgical procedures to have, upon request, an impartial review prior to implementation except in case of emergency procedures required for the preservation of his/her life;
- (M) To a nourishing, well-balanced, and varied diet;
- (N) To be free from verbal, physical and sexual abuse, misuse of funds/property, and neglect; and
- (O) To an impartial review of alleged violations of rights.

(2) Each individual served is entitled to the following unless the program director determines it is inconsistent with the individual's therapeutic care, treatment, habilitation, or rehabilitation and the safety of other individuals in the program and public safety:

- (A) To wear his/her own clothes and keep and use personal possessions;
- (B) To keep and be allowed to spend a reasonable amount of his/her own money;
- (C) To communicate by sealed mail or otherwise with persons, including agencies inside or outside the facility/program;
- (D) To receive visitors (family, friends, clergy, or other invited person) of his/her choice at reasonable times;
- (E) To have reasonable access to a telephone to make and receive confidential calls;
- (F) To have access to his/her mental health and physical health records;
- (G) To have opportunities for physical exercise and outdoor recreation; and
- (H) To have reasonable, prompt access to current newspapers, magazines, radio, and television programming.

1. Any limitation(s) imposed by the program director or designee, including the reason(s) for such limitation(s), must be documented in the individual record.

(3) In addition to the rights specified in sections (1) and (2) of this rule, residential programs and day programs serving individuals with Intellectual or Developmental Disability (IDD) shall comply with 9 CSR 45-3.030.

(4) Policies and procedures shall not be developed that limit the individual rights identified in this rule.

(A) Each individual shall be involved in any process that limits his/her rights, and any limitations must be documented in the Individual Support Plan (ISP), Individual Treatment Plan (ITP), or care plan. Documentation shall include the timeframe for each limitation and the process by which the individual's rights will be restored to him/her.

(5) As set out in section 630.760, RSMo, in addition to rights provided for individuals served in residential facilities or day programs licensed by the department, individuals in facilities and programs licensed by the department shall have the same rights as individuals as defined in section 198.088, RSMo.

(6) Individuals shall have an absolute right to receive visits from their attorney, physician, clergy, or case manager in private at reasonable times.

(7) Notwithstanding any limitations authorized under section (2) of this rule on the right of communication, all individuals shall be entitled to communicate by sealed mail with the department, their legal counsel, and with the court, if any, which has jurisdiction over the individual.

(8) As set out in section 630.120, RSMo, no individual, either voluntary or involuntary, shall be presumed to be incompetent, to forfeit any legal right, responsibility, or obligation or to suffer any legal disability as a citizen, unless otherwise prescribed by law, as a consequence of receiving evaluation, care, treatment, habilitation, or rehabilitation for a mental illness, intellectual or developmental disability, or substance use disorder.

(9) Each individual shall be informed of the process to make an inquiry, file a complaint, or report a violation of his/her rights to the department. Information shall be readily accessible to individuals at all times with staff assistance provided, if necessary.

(10) The individual rights included in this rule shall be readily available in accessible format to all individuals served without undue assistance or effort from program staff.

(11) Services shall be provided in a manner and an environment that maintains or enhances each individual's dignity and respect in full recognition of his/her individuality. Staff shall conduct activities in a manner that assists individuals in maintaining and enhancing their self-esteem and self-worth.

(A) Case discussions, consultations, examinations, and treatment are confidential and shall be conducted privately with each individual being served.

(B) Privacy shall be respected during toileting, bathing, and other activities of personal hygiene except as needed for safety or assistance.

(C) Each individual's private space and property shall be respected including, but not limited to, obtaining his/her permission before changing a radio or television station, knocking on doors and requesting permission to enter, closing doors as requested, and not moving or inspecting personal possessions without permission unless there is reasonable suspicion of a health or safety concern.

(D) Individuals shall be allowed to decorate their personal space to create a homelike environment in accordance with safety regulations of the program.

(E) When possible, individuals shall have a choice in their room-mate and, based on financial means and availability, be allowed to choose a shared or private room.

(F) As appropriate and allowed by the individual served, family members and other natural supports and/or parents/guardian shall be provided with information to promote their participation in relevant

services/supports and decisions related to the individual.

(12) Information and Orientation. Each individual admitted to a residential program or day program shall receive an orientation about what to expect while receiving services and supports, their role in services/supports, and program policies and procedures. The orientation must be provided within one (1) week of admission, and annually after that, and be documented in the individual record.

(A) The orientation shall be provided in verbal and written form and be explained in a manner that is understandable to the individual. The orientation shall include, but is not limited to—

1. Program rules, daily routines, participation requirements, rights, responsibilities, and behavioral expectations;
2. Available services, supports, and activities;
3. Complaint and appeal procedures;
4. Confidentiality policies;
5. Transition and discharge criteria and procedures;
6. Financial obligations, fees, and financial arrangements for services/supports provided by the program;
7. Health and safety policies regarding use of tobacco products, illegal or legal substances brought into the program, prescription medication brought into the program, and weapons and ammunition brought into the program;
8. Layout of the premises, including emergency exits and/or shelters and review of fire and disaster drill procedures;
9. Visitor policies and procedures;
10. Advance directives, when indicated; and
11. The individual's role in developing his or her ISP, ITP, or care plan.

(13) Social Committee. Residential programs and day programs having a licensed capacity of ten (10) or more individuals shall establish a committee, if one (1) does not currently exist, to review existing and planned social and structured activities for the program.

(A) The committee shall regularly review program policies and practices to ensure the legal rights of individuals served are consistently maintained.

(B) Membership on the committee shall include, at a minimum, individuals with mental illness and IDD, and program staff familiar with and able to make decisions related to program activities/functions. Family members or other natural supports, service providers, and other community members may participate on the committee. Minutes of committee meetings shall be readily available for review by individuals served, other interested parties, and department staff or its authorized representatives.

(14) Guardian. No facility or day program administrator shall be guardian of the individuals in the facility or day program as stipulated in section 475.055, RSMo.

AUTHORITY: sections 630.050 and 630.705, RSMo 2016. Original rule filed May 14, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 1—Definitions, Licensing Procedures, and
General Requirements for Community Residential
Programs and Day Programs

PROPOSED RULE

9 CSR 40-1.070 Organized Record System

PURPOSE: This rule specifies the requirements for maintenance of records in all community residential programs and day programs subject to licensure by the department in accordance with 9 CSR 40-1.055, including Residential Care Facilities (RCF) and Assisted Living Facilities (ALF) dually licensed by the Department of Health and Senior Services (DHSS).

(1) Maintenance of Records. An organized record system shall be maintained at the residential program or day program which ensures easily retrievable, complete, and usable records stored in a secure and confidential manner.

(A) The program shall implement written policies and procedures to ensure—

1. All local, state, and federal laws and regulations related to the confidentiality of records and release of information are followed;
2. Electronic health record systems conform to federal and state regulations;
3. Individual records are retained for at least six (6) years or until all litigation, adverse audit findings, or both, are resolved;
4. Ready access to paper or electronic records requested by department staff and other authorized representatives; and
5. Services are documented in a manner to ensure the type of service rendered and the amount of reimbursement received by the program can be readily discerned and verified with reasonable certainty.

(2) Registry. The program shall maintain a permanent, chronological registry documenting the date and name of each person admitted, date of discharge, and destination at time of discharge.

(3) Content of Records. Individual records must include current information related to each individual's support and services. Records must be readily available for review by department staff or other authorized representatives.

(A) Individual records must include, but are not limited to:

1. First name, last name, and middle initial;
2. Date of birth;
3. Photograph, not more than one (1) year old;
4. Height and weight;
5. Language spoken;
6. Date of admission;
7. Diagnosis;
8. Signed consent by the individual or parent/guardian or other legal representative, as applicable;
9. Acknowledgment of orientation to the program;
10. Name, address, and telephone number of parent/guardian, next of kin, or other responsible party;
11. Sources of financial support/insurance and burial plans, as applicable;
12. Name and contact information of healthcare provider(s);
13. Reports of any change in condition, injury, accident, or deviation from routine delivery of services (to be entered at the time of occurrence);
14. Documentation of any referral(s) to other services or community resources and outcome of those referrals;
15. Reports of comprehensive evaluations and annual physical examinations including vision, hearing, dental, and/or laboratory screenings recommended by the individual's primary healthcare

provider, and current immunization record;

16. Signed authorization(s) to release confidential information, as applicable;

17. Crisis or other significant events;

18. Physician's orders for adaptive equipment, as applicable;

19. Individualized education plan (IEP) and school record, if attending;

20. Plans for educational/vocational goals and activities, as applicable;

21. Quarterly height, if the individual is in a developmental period, and monthly weight; and

22. The Individual Support Plan (ISP), Individual Treatment Plan (ITP), or care plan, including documentation related to behavioral objectives and related progress.

(4) Entries in Records. Authorized staff making any entry in an individual's record must include his or her signature, title, and date, including corrections to information previously entered in the record.

(5) Consultation Services. Any required consultation services that are reimbursed by the department must be documented in the individual record, including the consultant's findings and recommendations. Recommendations regarding the program as a whole must be documented in the program's administrative records.

(6) Proof of Licensure. The department's most recent licensing report, including any noted license violations or deficient practices and related corrective action taken by the program, shall be displayed in accessible public areas on the program premises.

(7) Inventory of Personal Items. At the time of admission and at regular intervals, program staff shall inventory each individual's personal possessions. Separate records with backup documentation, receipts, and notations shall be maintained for—

(A) Personal finances, updated monthly, at a minimum;

(B) Inventory of personal possessions, updated annually; and

(C) Medication, upon admission and as required in 9 CSR 40-1.075.

(8) Drills. A record of scheduled and unscheduled emergency drills shall be maintained at the program. The record shall include any problems encountered on the part of staff or individuals served to respond properly during the drill and corrective action taken.

(9) Personnel Records. Personnel records shall be maintained for all program employees. Records must be readily accessible to department staff and other authorized representatives.

(A) Employee records shall include, but are not limited to:

1. Application for employment;

2. Education and license/certification, as required for the position;

3. Verification of completion of training courses, orientation, and other professional development;

4. Background screening; and

5. Screenings for communicable diseases.

(10) Organizational Chart. An organizational chart for the overall program and job descriptions for each position shall be maintained by the program.

(11) Work Schedule. A record of days and hours worked by each employee shall be maintained at the program location.

(12) Program Departures. A log shall be maintained to document when an individual being served leaves the program premises. The log shall include the individual's name and signature (or the name and signature of the family member/legal representative with whom they are departing the premises), departure time, destination, antici-

pated return time, and actual return time to the program.

(13) Availability of Records. Program records, reports, or other data shall be made available to department staff or its authorized representatives, upon request, in a manner that protects the rights of staff and individuals served.

AUTHORITY: sections 630.050 and 630.705, RSMo 2016. Original rule filed May 14, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH Division 40—Licensing Rules

Chapter 1—Definitions, Licensing Procedures, and General Requirements for Community Residential Programs and Day Programs

PROPOSED RULE

9 CSR 40-1.075 Person-Centered Services

PURPOSE: This rule specifies the service delivery requirements for all community residential programs and day programs subject to licensure by the department in accordance with 9 CSR 40-1.055, including Residential Care Facilities (RCF) and Assisted Living Facilities (ALF) dually licensed by the Department of Health and Senior Services (DHSS).

(1) Person-Centered Planning. Each individual being served in a residential program or day program who has a diagnosed mental illness and/or Intellectual or Developmental Disabilities (IDD) must have a plan to guide service delivery and coordinate resources and supports in accordance with his or her needs, expressed preferences, and decisions concerning his/her life in the community.

(A) Types of plans—

1. Individual Support Plan (ISP)—developed as defined in 9 CSR 45-3.010; a copy is provided to the residential program or day program by staff of the Developmental Disabilities (DD) targeted case management team;

2. Individual Treatment Plan (ITP)—developed by the individual served and/or his or her parents/guardian, with assistance from staff of the administrative agent or affiliate involved in his or her care and treatment; a copy is provided to the residential program or day program by staff of the administrative agent or affiliate; and

3. Care Plan—for individuals who do not have an ISP or ITP, developed by the individual served and/or his or her parents/guardian with assistance from staff of the residential program or day program, family members, and other natural supports of his/her choice.

A. Care plans shall be developed within thirty (30) days of an individual's admission to a residential program or day program. If the individual already has a care plan, the plan shall be updated within thirty (30) days of admission to create action steps to support

implementation of the plan and add any new services or supports needed.

B. The care plan shall include measurable goals and objectives important to the individual such as, self-sufficiency, community membership and involvement, education and employment, leisure time and activities, health and wellness, and personal relationships. The plan assists the individual in achieving personally defined outcomes, ensures delivery of services and supports in a manner that reflect personal preferences and choices, and contributes to the assurance of health and wellness.

(B) Residential services and supports consistent with the individual's needs and goals must be addressed in his/her plan. If the ISP, ITP, or care plan does not include services/supports specific to the residential program or day program, staff shall incorporate appropriate services/supports into the plan with input from the individual served and/or family members and other natural supports, as appropriate.

(C) Plan reviews and updates shall be completed as follows:

1. Staff of the residential program or day program enter monthly documentation into each individual's ISP, ITP, or care plan including, at a minimum, progress toward personal goals, modifications to necessary services and supports, and significant changes in the person's life, as applicable;

2. Quarterly and annual reviews and updates to the ISP or ITP are completed by staff of the DD case management team or administrative agent or affiliate respectively. A copy is maintained on file at the residential program or day program; and

3. Care plans are updated at least annually by staff of the residential program or day program in collaboration with the individual served and/or his or her parents/guardian, family members, and other natural supports of his/her choice.

(D) Individuals shall be supported in their efforts to obtain and maintain competitive employment of their choice, participate in job-training programs, educational opportunities, self-help skills, leisure time activities, and other programs of their choice.

(E) Opportunities for a variety of activities inside and outside the program shall be available, consistent with the interests of individuals served.

(2) Health Screen and Risk Assessment. Within thirty (30) days of transition into a residential program or day program, each individual served shall have verification in his/her record of having a health screening and risk assessment within the past year from their primary healthcare provider. The primary healthcare provider may be a physician, assistant physician, advanced practice registered nurse (APRN), or physician assistant.

(A) The health screening and any additional screenings or tests shall be directed by the individual's primary healthcare provider.

(B) Individuals shall receive vision, hearing, and dental examinations as recommended by their primary healthcare provider.

(C) Individuals shall receive psychiatric evaluations and continuing care and treatment by a physician or physician's designee of their choice, as needed.

(D) Immunizations shall be current as recommended by DHSS immunization guidelines, incorporated by reference and available at: <https://health.mo.gov/living/wellness/immunizations/schedules.php>. MO Department of Health and Senior Services, 912 Wildwood, PO Box 570, Jefferson City, Missouri 65102, Phone: 573-751-6400. This rule does not incorporate any subsequent amendments or additions to the guidelines listed above. This rule does not prohibit programs from complying with guidelines set forth in newer versions of the incorporated by reference material listed in this paragraph of this rule.

(E) Individuals shall receive an annual health screening unless specified otherwise by their primary healthcare provider.

(F) A risk assessment shall be completed for each individual at the time of admission to the residential program or day program to identify factors that may influence his or her behavior. The assessment

shall include, but is not limited to:

1. Suicide risk;
2. Risk of self-harm;
3. Risk of harm to others;
4. Physical, sexual, and/or emotional abuse experienced or witnessed;
5. History and presence of trauma symptoms; and
6. Aggressive or disruptive behavior.

(G) A safety crisis plan or crisis prevention plan shall be developed with individuals identified as having risk factors for harm to self or others. The plans must be readily accessible to all staff involved in the individual's support.

1. Individuals with *pro re nata* (PRN) orders for antipsychotic medication(s) must have parameters for use in their safety crisis plan or crisis prevention plan, including non-pharmacological interventions.

2. PRN use of antipsychotic medication for individuals with a safety crisis plan or crisis prevention plan shall be reviewed quarterly by the individual's primary healthcare provider.

(H) If an individual needs support with personal hygiene, grooming, telephone use, or other aspect of daily living, appropriate assistance shall be provided by staff and must be specified in his or her ISP, ITP, or care plan.

(I) Prompt healthcare, including dental treatment, shall be arranged for individuals receiving services in a residential program, as needed.

(3) General Healthcare and Medications. Medications for individuals served shall be properly stored and administered by staff.

(A) An order from a licensed physician (including psychiatrist) or an assistant physician, physician assistant, or APRN who is in a collaborating practice arrangement with a licensed physician is required for all medication and treatment being administered to individuals in the program except nonprescription topical medications. Orders must include diagnosis and indications for use.

(B) Each individual's record shall include current orders from all healthcare providers and all orders shall be followed by staff.

(C) Medication and treatment orders shall be reviewed as directed by the individual's primary healthcare provider, and all reviews must be documented at least annually in the individual record. Orders do not need to be rewritten if there are no changes; the healthcare provider's signature and date are sufficient.

(D) PRN orders for antipsychotic medication(s) must be documented in the individual's record with parameters for use, including non-pharmacological interventions.

(E) Standing PRN orders for the entire residential program or day program are not permitted.

(F) PRN orders for nonprescription medication and treatment may be utilized if the individual's primary healthcare provider's order specifies the dosage and/or treatment for specific indications.

(G) In an emergency, a healthcare provider may give or change an order by telephone. In such cases, the order must be signed by the healthcare provider within forty-eight (48) hours of the order being issued by telephone.

(H) For individuals under the care of multiple healthcare providers, all medical orders shall be maintained together in the individual record.

(I) Individuals shall be provided with a comprehensive list of their medications to take to healthcare and dental appointments.

(J) Any special dietary needs must be included in the individual's orders from their primary healthcare provider.

(4) Administration of Medication. A safe and effective process for medication control and use shall be implemented and maintained by staff.

(A) All medication administered to individuals served must be in accordance with their primary healthcare provider's orders using acceptable nursing practices.

(B) Staff who administer medication must be at least eighteen (18) years of age.

(C) The staff person who prepares a medication(s) must administer and chart it at the time of administration.

(D) All staff who administer and/or observe self-administration of medication by individuals served, with the exception of licensed physicians, nurses, pharmacists, assistant physicians, and physician assistants, must comply with one of the following prior to the provision of services:

1. Complete training and remain in good standing as a Level I Medication Aide or Certified Medication Technician with DHSS as specified at: <https://health.mo.gov/safety/cnaregistry/lima.php>; or

2. Complete Medication Aide training in accordance with curriculum established by the Division of Developmental Disabilities as specified in 9 CSR 45-3.070, available at: <https://www.sos.mo.gov/cmsimages/adrules/csr/current/9csr/9c45-3.pdf>.

A. Medication Aides must update and document their training every two (2) years.

(E) At least one (1) staff person trained in medication administration must be on duty in the residential program or day program twenty-four (24) hours per day, seven (7) days per week.

(F) Self-administration of medication is allowed and must be supervised by staff trained in medication administration.

1. If an individual self-administers medication, it must be included in his or her primary healthcare provider's orders and his/her ITP, ISP, or care plan, including the level of supervision and documentation required. Self-administration of medication should be encouraged, and individuals should be assisted in learning how to safely manage their medications.

(G) Errors in administration of medication must be reported immediately to the individual's primary healthcare provider, parent/guardian, if applicable, and to the department as specified in 9 CSR 10-5.206.

(5) Storage and Disposal of Medication. All medications, including over-the-counter medications, must be packaged and labeled in accordance with applicable professional pharmacy standards and state and federal drug laws.

(A) All prescription medications shall be supplied as individual prescriptions except when an emergency medication supply is allowed.

(B) Labeling of medications must include accessory and cautionary instructions, expiration date, when applicable, and the name of the medication as specified in the primary healthcare provider's order. Over-the-counter medications must be labeled with at least the individual's name. Medications shall not be repackaged or altered by staff except as allowed when an individual temporarily leaves the program premises.

1. The program shall have policies and procedures for family members and other natural supports and/or legal representative to provide adequate advance notice so prescription medication can be provided in a separate container by the pharmacy when an individual will be leaving the program for an extended period.

(C) All medications must be stored in a locked container or storage area as follows:

1. Schedule II-V medications must be stored separately from other medications under double lock;

2. Internal and external medications must be stored separately; and

3. Medications requiring refrigeration must be stored in a locked container separated from food.

(D) Controlled medications must be documented on a medication administration record and controlled substance count sheet in accordance with state and federal regulations.

(E) Stock supplies of nonprescription medication may be kept in the program when specific medications are approved in writing by a consulting physician, registered nurse, or pharmacist.

(F) Unused, discontinued, outdated, or deteriorated prescription

and over-the-counter medications must be properly disposed of in accordance with DHSS regulation 19 CSR 30-86.042(60), available at: <https://www.sos.mo.gov/cmsimages/adrules/csr/previous/19csr/19csr1012/19c30-86.pdf>.

1. Medications shall be destroyed within the program by a pharmacist and a licensed nurse or by two (2) licensed nurses. When two (2) licensed nurses are not available, medications must be destroyed by two (2) staff who have authority to administer medications, one (1) of whom is a licensed nurse or a pharmacist.

2. A record of all destroyed medications must be maintained at the program and include the individual's name, date, medication name and strength, quantity, prescription number, and signatures of staff destroying the medication.

3. A record of medications released or returned to a pharmacy must be maintained by the program and include the individual's name, date, medication name and strength, quantity, prescription number, and signature(s) of the staff who received and released the medications.

(6) Equipment. Medical equipment and first-aid supplies needed to treat simple emergencies must be maintained in operable condition and be available at the program at all times. If the program has medical and nursing equipment, it must be maintained in operable condition and stored so it is reasonably accessible and used only for the purpose intended.

(7) Isolation. If a healthcare provider recommends an individual with a contagious or infectious disease be placed in isolation, staff of the program shall ensure the recommendation is implemented immediately.

(8) Personal Supports. Staff of the program shall ensure individuals have access to clean clothing and personal care items, as needed.

(A) Each individual shall have an adequate supply of properly-fitting, age-appropriate clothing that is neat, clean, seasonable, and suitable to the occasion. Identification on clothing should be discreet.

(B) Each individual shall have his/her own toothbrush, toothpaste, washcloth, towel, comb or hairbrush, or both.

(C) Shaving equipment shall be provided, as needed, in accordance with the ISP, ITP, or care plan of the individual served.

(D) Personal hygiene items shall be stored to maintain sanitary conditions and prevent the transmission of communicable disease.

(E) Individuals shall be trained and supported in developmental and self-help skills to include dressing, grooming, toileting, bathing/showering, and hygiene, as needed.

(F) Individuals shall be trained and supported in eating skills and the use of adaptive equipment in accordance with their individual needs.

AUTHORITY: sections 630.050 and 630.705, RSMo 2016. Original rule filed May 14, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 1—Definitions, Licensing Procedures, and
General Requirements for Community Residential
Programs and Day Programs

PROPOSED RULE

9 CSR 40-1.080 Dietary Services

PURPOSE: This rule specifies the dietary service requirements for all community residential programs and day programs subject to licensure by the department in accordance with 9 CSR 40-1.055. This rule does not apply to Residential Care Facilities (RCF) and Assisted Living Facilities (ALF) dually licensed by the Department of Health and Senior Services (DHSS).

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) Meal Preparation and Food Storage. The program must comply with state, county, and city health regulations applicable to its food and dietary components, including catered food through a contractual arrangement and food brought to the program by individuals served. Inspections must be current and in compliance with state, local, and/or city regulations and available on site.

(A) All food must be purchased, prepared, and stored in accordance with safety and sanitation regulations of the DHSS *Missouri Food Code*, 19 CSR 20-1.025, available at: <https://health.mo.gov/safety/foodsafety/pdf/missourifoodcode.pdf>.

(B) All programs shall ensure—

1. Proper diet and food preparation are addressed as part of the individualized planning process, if identified as a need or goal of the individual.

A. Individuals who prepare their own meals or help with meal preparation shall be assisted by staff, as needed.

B. Individuals shall be assisted and educated about purchasing and safely storing food and drinks in a manner that prevents spoilage and contamination.

C. Individuals shall be supported in developing meal plans and grocery lists and educated and assisted by staff, as needed, in order to meet any special dietary requirements;

2. A sufficient number of appliances and equipment are available for food preparation including, but not limited to, a stove and refrigerator, dishes, cookware, and utensils to meet the needs of individuals served. All equipment must be in safe and good operating condition and food preparation areas, appliances, and equipment are cleaned and sanitized after each use;

3. Meals and snacks are served in a clean dining area with tables, chairs, eating utensils, and dishes designed and provided to meet individual needs;

4. Handwashing accommodations including hot and cold water, soap, and hand-drying are readily accessible to individuals and staff;

5. The temperature of hot water at all faucets accessible to individuals served must be controlled by a thermostatic mixing valve or other means, so the water temperature does not exceed one hundred twenty degrees Fahrenheit (120°F);

6. Dishwasher(s) shall be supplied with an adequate amount of wash and rinse water at one hundred forty degrees Fahrenheit (140°F) at a minimum. A three- (3-) vat sink in lieu of a dishwasher may be used based on the size of the program;

7. If a three- (3-) vat sink is used, it must be of sufficient depth and size to accommodate utensils most frequently used in the preparation and serving of food;

8. If hot water is temporarily unavailable, chemicals used for sanitizing equipment, dishes, and utensils shall be used in accordance with the Environmental Protection Agency (EPA) registered label use instructions, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460 available at: <https://www.epa.gov/pesticide-registration/selected-epa-registered-disinfectants> and in accordance with the *Missouri Food Code*, 19 CSR 20-1.025, available at: <https://health.mo.gov/safety/foodsafety/pdf/missourifoodcode.pdf>. It is recommended that single-use, disposable dishes/utensils and prepared foods be used if hot water is not available. Larger cooking equipment may be washed with the EPA-registered label sanitizer product and be air dried; and

9. Programs serving ten (10) or more individuals must provide a place for handwashing adjacent to work areas that includes hot and cold water, soap, paper towels, or electrical hand-drying devices.

(2) Balanced Diet. A balanced variety of healthy foods and drinks, with opportunities for choice, shall be available to individuals each day.

(A) Meals and snacks shall be based on the *Dietary Guidelines for Americans 2015-2020*, 8th Edition, incorporated by reference and published in the Office of Disease Prevention and Health Promotion, U.S. Department of Health and Human Services, 1101 Wootton Parkway, Suite LL100, Rockville, MD 20852, available at <https://health.gov/dietaryguidelines/2015/guidelines/>. This rule does not incorporate any subsequent amendments or additions to the guidelines listed above. This rule does not prohibit programs from complying with guidelines set forth in newer versions of the incorporated by reference material listed in this paragraph of this rule.

(B) Meals and drinks shall be prepared and served at scheduled times, comparable to mealtimes in the community, or as necessary to meet individual needs and schedules. Ready access to nutritious snacks shall be available, including in the evening.

(C) Meals and drinks shall be prepared and served at proper temperatures to conserve nutritive value and enhance flavor and appearance.

(D) Documented consultation with a licensed dietitian or registered nurse must take place at least annually for individuals with special diets.

(E) Milk provided to individuals served must be Grade A pasteurized milk or Grade A certified, pasteurized milk.

(F) Cool, safe drinking water approved by the state or local public health authority must be available to individuals at all times. Single-serving cups or glasses shall be available for individuals unable to drink from a water fountain.

(G) Consideration shall be given to the food habits, personal, cultural, and religious preferences, and medical needs of individuals served, including provisions for special diets for medical reasons.

(H) When individuals require blended food, program staff shall prepare, measure, and serve it individually, not mixed together.

(I) The consistency and texture of food shall meet each individual's needs. Individuals shall not be fed in a prone position.

(J) Individuals requiring liquid or soft diets shall be provided with nourishing, supplementary food between meals to meet their nutritional needs.

(K) Meals may be served family style to provide a home-like atmosphere.

(L) Individuals served shall have the opportunity to participate in planning menus and options for food substitutions. Menus should be developed at least one (1) week in advance.

(M) Menus covering at least a three- (3) month time period shall be available for review by department staff or other authorized representatives.

AUTHORITY: sections 630.050 and 630.705, RSMo 2016. Original rule filed May 14, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 1—Definitions, Licensing Procedures, and
General Requirements for Community Residential
Programs and Day Programs

PROPOSED RULE

9 CSR 40-1.085 Environment

PURPOSE: This rule specifies the environmental requirements for all community residential programs and day programs subject to licensure by the department in accordance with 9 CSR 40-1.055. This rule does not apply to Residential Care Facilities (RCF) and Assisted Living Facilities (ALF) dually licensed by the Department of Health and Senior Services (DHSS).

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) Physical Environment. All residential programs and day programs shall be in compliance with applicable state and local building codes, fire codes, and ordinances to ensure the health, safety, and security of all individuals.

(A) The physical environment shall—

1. Be clean, structurally sound, and attractive inside and out;
2. Have solid, skid-proof floors that are free from tripping hazards and, unless carpeted, have a smooth finish;
3. Have ceilings at least seven feet, six inches (7'6") in height in all rooms used by individuals served. Allowances may be made by Division of Fire Safety staff for the installation of ductwork and plumbing. No more than forty percent (40%) of the ceiling in each room shall be below minimal height, with no portion of the ceiling lower than six feet, eight inches (6' 8");
4. Be equipped with a functional heating and air conditioning system with room temperatures maintained to meet the reasonable comfort needs of individuals served;
5. Be free of noxious odors;
6. Have control measures to prevent rodent and insect infestation;
7. Have windows, doors, and vents for ventilation and temperature control that operate as designed and are maintained to repel rodents and insects;
8. Comply with Department of Housing and Urban Development (HUD) Lead-Based Paint Regulations, hereby incorporated by reference and available from 451 7th Street S.W., Washington, DC 20410, (202) 708-1112, TTY (202) 708-1455, 24

CFR Part 35, available at: <https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=e1741143a75841f15fcfd930d325ac2b&rgn=div5&view=text&node=24:1.1.1.1.24&idno=24>. This rule does not incorporate any subsequent amendments or additions to the regulations listed above. This rule does not prohibit programs from complying with regulations set forth in newer versions of the incorporated by reference material listed in this paragraph of this rule; and

9. Have adequate fencing around swimming pools, sewage lagoons, liquefied petroleum gas (LPG) tanks, and other potentially hazardous areas.

(B) Any relocation, construction of additional space, or remodeling of a currently licensed program must be in compliance with 9 CSR 40-1.055 subsection (6)(A).

(2) Modular Unit. A residential program or day program shall not be located in a modular unit as defined in section 700.010(8), RSMo.

(3) Manufactured Home. A residential program or day program may be located in a manufactured home as defined in section 700.010(6), RSMo. If a manufactured home is being used, documentation must be maintained on site indicating the home meets the HUD Manufactured Home Construction and Safety Standards, 24 CFR Part 3280, hereby incorporated by reference and is available from the U.S. Government Publishing Office, 732 N. Capital Street NW, Washington, DC 20401, (866) 512-1800 and at: <https://www.ecfr.gov/cgi-bin/text-idx?SID=a2c5655a37054c584f7dd6a0ed240fb8&node=pt24.5.3280&rgn=div5>. This rule does not incorporate any subsequent amendments or additions to the standards listed above. This rule does not prohibit programs from complying with standards set forth in newer versions of the incorporated by reference material listed in this paragraph of this rule.

(4) Accessibility. Residential programs and day programs serving individuals with physical disabilities must be barrier free and have grab bars, ramps, railings, or other means of accessibility that are maintained to function properly and comply with the 2010 *Americans with Disabilities Act Standards for Accessible Design*, hereby incorporated by reference and developed by the U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530-0001, (202) 514-2000 and available at: <https://www.ada.gov/regs2010/2010ADAStandards/2010ADAstandards.htm>. This rule does not incorporate any subsequent amendments or additions to the standards listed above. This rule does not prohibit programs from complying with standards set forth in newer versions of the incorporated by reference material listed in this paragraph of this rule.

(5) Bedrooms. Individuals receiving services in a residential program shall be provided with a bedroom to meet their specific needs.

(A) All bedrooms shall—

1. Provide at least sixty (60) square feet of floor space per individual in multiple sleeping rooms, and at least eighty (80) square feet of floor space per individual in single sleeping rooms;
2. Have no more than four (4) individuals in a shared room, except behavioral health community residential programs shall have no more than one (1) individual per room as specified in 9 CSR 40-4.001;
3. Have at least one (1) outside window for evacuation purposes that complies with state and local fire safety codes. Windows shall operate as designed, without the use of tools to open or close, provide full visual access to the outdoors, have a clear opening of not less than twenty inches (20") in width and twenty-four inches (24") in height, and be no more than forty-four inches (44") above the finished floor. Any latching window device must be operable from not more than fifty-four inches (54") above the finished floor;
4. Have a floor level which is no more than three feet (3') below the outside grade on the window side of the room;

5. Have a clean and comfortable pillow, mattress, and bed. Cots, convertible beds, and bunk beds shall not be used. Hospital beds may be used in accordance with an order from the individual's primary healthcare provider. Each individual's mattress shall be at least as long as his/her height with the exception of individuals in the developmental period, in which case the mattress shall be at least four inches (4") longer than his/her height;

6. Have furnishings in good operating condition for each individual including, at a minimum, a chair (with the exception of individuals using a wheelchair or those who prefer not to have a chair), closet space, a place for storage of personal items, and space for hanging pictures or wall decor;

7. Have clean sheets, pillowcases, mattress cover, bedspread, and blanket(s) to meet individual needs; and

8. Have an interior door for safety and privacy, unless staff supervision and monitoring are required as documented in the Individual Support Plan (ISP), Individual Treatment Plan (ITP), or care plan of the individual served. Locking devices for bedroom doors must comply with regulations of the National Fire Protection Association (NFPA) *Life Safety Code 101*, hereby incorporated by reference and available from NFPA, 1 Batterymarch Park, Quincy, MA 02169-9101, (617) 770-3000 or 1-800-344-3555, available at: www.nfpa.org. This rule does not incorporate any subsequent amendments or additions to the regulations listed above. This rule does not prohibit programs from complying with regulations set forth in newer versions of the incorporated by reference material listed in this paragraph of this rule.

(6) Living Space. Programs shall have a living room and/or recreational area(s), kitchen, and dining area(s) with sufficient equipment, supplies, and furnishings to meet the needs of individuals served. Equipment and furnishings shall include, at a minimum, tables, chairs, sofas, and bookshelves to meet individual needs.

(A) Furnishings and equipment shall be clean and in good operating condition.

(B) All windows shall operate as designed, without the use of tools, and provide visibility to the outdoors.

(C) Kitchens must have a window or other adequate exhaust ventilation system.

(D) Areas designated as living/recreational space shall not be used as sleeping space.

(7) Bathrooms. Each residential program or day program shall have at least one (1) bathroom with at least one (1) toilet, one (1) sink with mirror, and one (1) tub or shower in good operating condition, including hot and cold running water, for each six (6) individuals being served.

(A) Bathrooms must have a window or other adequate ventilation and be designed to meet the needs of individuals served

(B) For multi-stall bathrooms, separate bathrooms shall be available for each sex unless reasonable justification is provided to the department that this is not necessary.

(8) Water Supply. If the water supply is not that of the city or county in which the program is located, the water supply must meet the drinking water regulations promulgated by the Department of Natural Resources, 10 CSR-60.

(9) Electrical. The program's electrical system must comply with all state and local regulations and the NFPA 2017 *National Electrical Code*, hereby incorporated by reference and available from NFPA, 1 Batterymarch Park, Quincy, MA 02169-9101, (800)-344-3555, available at: <https://www.nfpa.org/NEC/electrical-codes-and-standards>. A written statement from a licensed electrician must be submitted to the department when the program applies for an initial license and whenever modifications are made, verifying the electrical system is in compliance with these regulations. This rule does not incorporate any subsequent amendments or additions to the regulations listed above. This rule does not prohibit programs from com-

plying with regulations set forth in newer versions of the incorporated by reference material listed in this paragraph of this rule.

(A) Each program shall have sufficient lighting and electrical outlets to meet the needs of individuals served. Extension cords shall not be used.

(B) If surge protectors/power strips are used, they must be Underwriters' Laboratory (UL) approved or comply with other recognized electrical appliance approval standards. Surge protectors/power strips shall not be placed under rugs, in doorways, or other areas where they may present a tripping hazard or be subject to physical damage.

(10) Plumbing. The plumbing system in the program shall comply with all state and local regulations and the 2018 *National Standard Plumbing Code*, hereby incorporated by reference and developed by and available from the International Association of Plumbing and Mechanical Officials, 180 S. Washington St., Suite 100, Falls Church, VA 22046, (800) 533-7694, available at: <https://www.phccweb.org/tools-resources/nspc/>. A written statement from a licensed plumber must be submitted to the department at the time of the program's initial application for licensure and whenever modifications are made, verifying the plumbing system is in compliance with these regulations. This rule does not incorporate any subsequent amendments or additions to the regulations listed above. This rule does not prohibit programs from complying with regulations set forth in newer versions of the incorporated by reference material listed in this paragraph of this rule.

(A) Clean water must be distributed to all plumbing fixtures and wastewater must leave the building to an approved area without presence of sewer gas or backups.

(B) Plumbing fixtures and pipes must be free of leaks and threats to individual health and safety.

(C) Hot water must be thermostatically controlled so the water temperature does not exceed one hundred twenty degrees Fahrenheit (120°F).

(D) Water-heating equipment must be installed in accordance with the 2018 *National Standard Plumbing Code* and in a manner that does not present safety hazards to individuals served. Unless enclosed, water heaters shall not be located in bedrooms or living areas where safety hazards may exist. Fuel-burning equipment must be properly vented and have proper clearance from combustible materials.

(E) The program must utilize a public sewage system, if available. If a public sewage system is not available, a private sewage disposal system that complies with all local and state regulations and the requirements of the 2018 *National Standard Plumbing Code*, hereby incorporated by reference shall be used, developed by and available from the International Association of Plumbing and Mechanical Officials, 180 S. Washington St., Suite 100, Falls Church, VA 22046, (800) 533-7694, available at: <https://www.phccweb.org/tools-resources/nspc/>. This rule does not incorporate any subsequent amendments or additions to the regulations listed above. This rule does not prohibit programs from complying with regulations set forth in newer versions of the incorporated by reference material listed in this paragraph of this rule.

(11) Telephones. An adequate number of telephones, appropriate to the needs of individuals being served in the program, must be reasonably accessible and located to allow individuals to make and receive private calls. Free local telephone access shall be available for individuals to contact their healthcare providers or other service providers such as behavioral health, developmental disabilities, housing, employment, and educational resources.

(A) Cellular phones may be used when all of the following conditions are met:

1. The phone must always have a signal;
2. The phone must always be charged;
3. The phone is set up to allow individuals to make and receive normal calls;
4. The phone must remain in the program at all times; and

5. The emergency plan for the program must address the use of cellular phones.

(B) Telephone numbers for the local fire department, police and/or sheriff's department, Access Crisis Intervention, Missouri Adult Abuse and Neglect Hotline, Suicide Hotline, and department's Office of Constituent Services shall be readily accessible where telephones are located.

(C) The telephone number for each individual's support team member(s) or staff from the administrative agent or affiliate staff shall be readily accessible to individuals served and staff in the program.

(12) Safety Risks. Hazardous flammable or combustible materials, toxic cleaning supplies, sharp objects, and other items determined as potentially harmful shall be stored based upon the assessed safety needs of individuals being served in the program, as specified in their ISP, ITP, or care plan. These items must be inaccessible to individuals served if they are unable to handle them safely.

(A) Unless prohibited, firearms and/or ammunition on the premises or in vehicles shall be kept in a locked space or container that cannot be accessed by anyone other than the owner of the firearm and/or ammunition.

(13) Maintenance. The program director shall ensure there is a system in place for ongoing maintenance of the program premises.

(14) Transportation. Vehicles used by program staff to transport individuals served shall be properly registered, insured, and maintained. Vehicles shall have working seat belts and be accessible if used to transport individuals with physical disabilities. The agency shall comply with state and federal seat belt and car seat laws and regulations when transporting individuals served. Verification of a current driver's license for all staff providing transportation must be maintained in personnel files.

(A) Program staff are responsible for the care, safety, and supervision of individuals served when they are transported from the operating site to other locations in the community.

(B) Staffing ratios shall be maintained at any time the program transports individuals away from its operating site.

AUTHORITY: sections 630.050 and 630.705, RSMo 2016. Original rule filed May 14, 2020.

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Chapter 1—Definitions, Licensing Procedures, and
General Requirements for Community Residential
Programs and Day Programs

PROPOSED RULE

9 CSR 40-1.090 Fire Safety and Emergency Preparedness

PURPOSE: The rule prescribes fire safety and emergency preparedness requirements for all residential programs and day programs subject to licensure by the department in accordance with 9 CSR 40-1.055. This rule does not apply to Residential Care Facilities (RCF) and Assisted Living Facilities (ALF) dually licensed by the Department of Health and Senior Services (DHSS).

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) General Requirements. The program director shall ensure all local building codes, fire codes, and ordinances are followed and all hazard detection systems, alarm systems, and other safety equipment are maintained in proper operating condition. Practices shall be implemented to protect all individuals from fire, smoke, noxious fumes, and other safety hazards.

(A) Each residential program and day program shall be inspected at least annually by a Division of Fire Safety inspector. Initial and annual inspection reports must be maintained on site and be available for review by department staff and other authorized representatives.

(B) The 2018 regulations of the NFPA *Life Safety Code 101* will prevail in the interpretation of these rules. The regulations are incorporated by reference and available from NFPA, 1 Batterymarch Park, Quincy, MA 02169, (617) 770-3000 or 1-800-344-3555, available at: www.nfpa.org. This rule does not incorporate any subsequent amendments or additions to the regulations listed above. This rule does not prohibit programs from complying with the regulations set forth in newer editions of the incorporated by reference material listed in this subsection of this rule.

(C) The program address must be posted on the outside of the building where it is plainly visible from the street with numbers/letters at least four inches (4") in height and contrasting color with the building.

(D) Evacuation routes, with diagrams giving clear directions on how to safely exit the building in a timely manner, must be posted in locations throughout the building that are easily accessible to individuals served, staff, and visitors.

(E) Staff shall demonstrate the knowledge and ability to implement the program's emergency preparedness and evacuation plans and be trained and demonstrate the ability to operate the fire alarm system, fire extinguishers, and other safety devices. Training must be documented in personnel records, including date(s) and signature of trainer(s).

(F) A fire drill shall be conducted at least one (1) time per quarter, with a minimum of one (1) annual drill during sleeping hours. All staff and individuals on each shift must participate in at least one (1) annual fire drill. All drills must comply with the specifications of the posted evacuation plan.

(G) In addition to fire drills, staff and individuals served shall participate in other emergency drills at least quarterly and as specified in the emergency policies and procedures.

1. Individuals who are unable to react to emergency situations in a safe and expedient manner must have the supports necessary to implement their individual emergency plan.

2. Each drill must be documented and reviewed by staff responsible for execution of the emergency practices. Documentation shall include, but is not limited to, number of staff and individuals present during the drill, success of the drill or problems encountered, length of the drill, and corrective action taken, including training and education of staff and individuals served, as necessary.

(H) Hangings or draperies shall not be placed over exit doors or located where they conceal or obscure any exit.

(I) Stairways, sidewalks, ramps, and porches shall be kept clear of ice, snow, and any other obstacles that may be a potential fall or tripping hazard.

(J) Fresh-cut Christmas trees shall not be used unless they are treated with a flame resistant material and documentation of such is maintained on site.

(K) Candles and other devices that have an open flame shall not be used indoors. Short-term, supervised use of candles for special occasions or dinners is permitted.

(L) A program served by a volunteer or membership fire department shall maintain documentation of a current contract or proof of membership on site.

(M) Staff shall notify the nearest fire department when the residential program or day program becomes operational and maintain the required signed documentation by the local authority (fire department notification form) on site.

(N) Clothes dryers shall be properly maintained and vented to the outside, or as recommended by the manufacturer.

(O) Smoking shall not be allowed inside the program. At the discretion of the program director, designated outdoor smoking areas may be provided away from doors and windows. Supervision must be maintained based upon individual needs as documented in the Individual Support Plan (ISP), Individual Treatment Plan (ITP), or care plan.

(2) Hazard Detection, Alarms, and Extinguishment. All smoke detectors, carbon monoxide detectors, alarm systems, sprinkler systems, and adaptive alarm systems must be installed and maintained in accordance with the 2018 NFPA *Life Safety Code 101*, incorporated by reference and available from NFPA, 1 Batterymarch Park, Quincy, MA 02169, (617) 770-3000 or 1-800-344-3555, available at: www.nfpa.org. Staff of the Division of Fire Safety may make additional requirements to provide adequate life safety protection if it is determined the safety of individuals is endangered. This rule does not incorporate any subsequent amendments or additions to the regulations listed above. This rule does not prohibit programs from complying with the regulations set forth in newer editions of the incorporated by reference material listed in this section.

(A) Fire detection and other emergency notification systems shall be maintained to sound an alarm that can be heard throughout the premises, above the noise of normal activities, radios, and televisions. Notification must be provided automatically without delay. Pre-signal systems are prohibited. Staff of the Division of Fire Safety may make additional requirements to provide adequate life safety protection if it is determined the safety of individuals is endangered.

1. Adaptive emergency alarm systems must be installed if individuals who are deaf are being served in the program.

(B) At least one (1) portable, five pound (5 lb.) ABC-rated fire extinguisher, with directions for use on the equipment, must be located on each floor of the building including in or near every kitchen, storage room, furnace area, and other mechanical equipment rooms. Additional fire extinguishers may be required by the local authority based on the floor plan and number of levels being used by individuals served so travel distance is no greater than seventy-five feet (75') between fire extinguishers.

1. All staff of the program must be knowledgeable on the location and use of the fire extinguisher(s).

2. Education provided to staff on the use of fire extinguishers must be documented and available on site, including date(s) and signature of trainer(s).

3. Fire extinguishers must be inspected and approved annually by a fire safety authority. Documentation of the inspection and approval, including date and signature of inspector, must be maintained on site.

(C) Programs serving four (4) or fewer individuals must have at least one (1) certified Underwriters' Laboratories, Inc. (UL) or Factory Mutual (FM) smoke detector on each floor in close proxim-

ity to bedrooms, hallways, living spaces, kitchen, storage rooms, offices, and any other areas deemed necessary by Division of Fire Safety staff.

1. If battery-powered smoke detectors are used, they must be tested monthly and batteries changed as needed. Documentation including the dates, testing, and changing of batteries must be maintained on site.

2. Smoke detectors that are ten (10) years old or older must be replaced with new smoke detectors of the same style. Date(s) of installation must be maintained on site.

(D) Programs serving five (5) or more individuals must have a full coverage electrical fire alarm system with battery backup, a master control panel, smoke detectors, heat sensors, and pull station. Horns and strobe lights connected to the fire alarm must be installed throughout the building(s). All equipment must be UL- or FM-certified and installed on a dedicated circuit in the breaker box.

1. The system must be tested, inspected, and approved semi-annually by an authorized inspector. A copy of the test report and approval of the system must be maintained on site.

2. Heat detectors shall be installed in all mechanical rooms, kitchens, and throughout the attic.

3. Smoke detectors that are connected to a fire alarm system must be replaced after ten (10) years of service or recalibrated by the manufacturer of the smoke detector. If the smoke detectors are recalibrated, temporary smoke detectors must be installed so the fire alarm system continues to function properly.

(E) In addition to having an electrical alarm system, programs serving five (5) or more individuals must have an automatic fire sprinkler system when any of the following conditions apply:

1. Individuals served use any floor above the second (2nd) floor of the building;

2. Individuals who require mechanical or staff assistance to evacuate the building use any floor above or below the first (1st) floor; or

3. Individuals use a floor below the level of exit discharge, such as a basement, which exceeds twelve hundred (1,200) square feet in total area.

A. The water supply for the sprinkler system may be a domestic water source, if the domestic water system is designed to adequately support the design flow of the largest number of sprinklers in any one area.

4. The automatic sprinkler system shall be installed and maintained in accordance with the 2019 NFPA *Standards for Installation of Sprinkler Systems*, NFPA, 1 Batterymarch Park, Quincy, MA 02169, (617) 770-3000 or 1-800-344-3555 incorporated by reference and available at: <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=13>. This rule does not incorporate any subsequent amendments or additions to the standards listed above. This rule does not prohibit programs from complying with standards set forth in newer versions of the incorporated by reference material listed in this paragraph of this rule.

5. The sprinkler system shall be tested, inspected, and approved semi-annually by an authorized inspector. A copy of the test report and approval of the system shall be kept on file at the program for review by Division of Fire Safety staff, department staff, or other authorized representatives.

(F) Programs using a commercial stove, deep fryer, or two (2) home-type ranges placed side by side must be equipped with a range hood and extinguishing system with an automatic cutoff of the fuel supply and exhaust system in case of fire.

1. The hood and extinguishment system must be inspected by a qualified technician to ensure they are in good operating condition in accordance with the 2017 NFPA *Standards for Ventilation Control and Fire Protection of Commercial Cooking Operations*, incorporated by reference and available at NFPA, 1 Batterymarch Park, Quincy, MA 02169, (617) 770-3000 or 1-800-344-3555, available at: <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=96>. This rule

does not incorporate any subsequent amendments or additions to the standards listed above. This rule does not prohibit programs from complying with standards set forth in newer versions of the incorporated by reference material listed in this paragraph of this rule.

2. The range hood and extinguishment system shall be connected to the control panel of the fire alarm system. The activation of the range hood fire extinguishment system must cause the fire alarm system to activate throughout the building.

3. Home-type ranges separated by an eighteen inch (18") cabinet are not required to have an extinguishing system installed above them. Programs using a home-type range with no more than four (4) burners and/or grill are not required to have a fire extinguishing system above the range.

(G) Programs that have an attached garage and/or use gas utilities, equipment, or appliances that pose a potential carbon monoxide risk, shall install carbon monoxide detectors on each level of the building according to the 2018 NFPA *Life Safety Code 101* and the recommendation of the local authority. The regulations are incorporated by reference and available from NFPA, 1 Batterymarch Park, Quincy, MA 02169, (617) 770-3000 or 1-800-344-3555, and available at: www.nfpa.org. This rule does not incorporate any subsequent amendments or additions to the regulations listed above. This rule does not prohibit programs from complying with the regulations set forth in newer editions of the incorporated by reference material listed in this subsection of this rule.

1. If an elevated carbon monoxide level is detected in a program during a fire inspection, all gas-fired appliances must be checked by a heating and air conditioning company to identify the source of the carbon monoxide. Until program staff have documentation on file verifying all gas-fired appliances were checked by a heating and air conditioning company, are in safe working order, and the building(s) is determined safe by the local authority, the fire inspection will not be approved.

2. If a level of carbon monoxide is determined that endangers the lives of individuals, the local authority shall take measures necessary to ensure their safety which may include evacuating or closing the program. Program staff shall obtain and maintain documentation on site verifying all gas-fired appliances were checked by a heating and air conditioning company and are in safe working order. The program must be reinspected by the local authority and determined safe before individuals can return or the program can reopen.

(3) Means of Egress and Exits. Means of egress and exit from all buildings shall be maintained in accordance with the 2018 NFPA *Life Safety Code 101*. The regulations are incorporated by reference and available from NFPA, 1 Batterymarch Park, Quincy, MA 02169, (617) 770-3000 or 1-800-344-3555, available at: www.nfpa.org. This rule does not incorporate any subsequent amendments or additions to the regulations listed above. This rule does not prohibit programs from complying with the regulations set forth in newer editions of the incorporated by reference material listed in this section.

(A) All programs must meet the following requirements:

1. Each floor used by individuals served shall have at least two (2) remotely located means of exit. At least one (1) of these exits must lead directly outside at ground level, to an outside stairway, or to an enclosed stairway constructed of materials with at least a one-(1) hour fire resistance rating on each level and an exit leading directly outside;

2. Each exit door shall be at least thirty inches (30") wide in existing licensed buildings and at least thirty-six inches (36") wide in buildings constructed after the effective date of these licensing rules;

3. All means of egress shall be free of items that would obstruct the path of travel;

4. Doors that serve as a means of exit shall not be locked or blocked against egress travel when the building is occupied. Door locks requiring a key, tool, special code, or knowledge to unlock from the inside shall not be used;

5. Overhead garage doors shall not be considered as exit door-

ways;

6. Mirrors shall not be placed on exit doors or adjacent to any exit in such a manner to confuse the direction of the exit;

7. All hallways must have a clear width of at least thirty-six inches (36") wide and be kept free of all articles that might impede an individual's evacuation from the building, including wheelchairs, walkers, or other support equipment;

8. Dead-end hallways cannot exceed twenty feet (20');

9. No primary means of escape or planned exit shall lead through a bathroom, storage room, furnace room, garage, or any other room deemed hazardous by the local authority;

10. All ramps must be accessible, safe, and installed in accordance with the 2010 *Americans with Disabilities Act Standards for Accessible Design*, established by the U.S. Department of Justice, Civil Rights Division, 950 Pennsylvania Avenue NW, Washington DC 20530, (800)514-0301, incorporated by reference and available at: <https://www.ada.gov/regs2010/2010ADAStandards/2010ADAstandards.htm>. This rule does not incorporate any subsequent amendments or additions to the standards listed above. This rule does not prohibit programs from complying with the standards set forth in newer editions of the incorporated by reference material listed in this paragraph of this rule; and

11. Programs that have stairs, including stairs used as a fire escape, shall meet the requirements of the 2010 *Americans with Disabilities Act Standards for Accessible Design*, established by the U.S. Department of Justice, Civil Rights Division, 950 Pennsylvania Avenue NW, Washington DC 20530, (800) 514-0301, incorporated by reference and available at: <https://www.ada.gov/regs2010/2010ADAStandards/2010ADAstandards.htm>, the 2018 NFPA *Life Safety Code 101*, incorporated by reference and available from NFPA, 1 Batterymarch Park, Quincy, MA 02169, (617) 770-3000 or 1-800-344-3555, available at: www.nfpa.org, and the local authority. This rule does not incorporate any subsequent amendments or additions to the standards listed above. This rule does not prohibit programs from complying with the standards set forth in newer editions of the incorporated by reference material listed in this paragraph of this rule.

(B) Programs serving five (5) or more individuals shall meet the following requirements for means of egress and exit:

1. All outside exit doors must swing in the direction of egress travel;

2. All exit doors must be clearly marked and illuminated; and

3. Emergency lighting with battery backup shall be installed to light all paths of egress travel. The location and number of emergency lights shall be determined by the local authority. Emergency lights shall be tested monthly with documentation maintained on site indicating which lights were tested, the date tested, and the name and signature of the staff performing the test.

(C) Each wing or hallway in programs serving ten (10) or more individuals must be separated into fire compartment areas by fire doors and walls having not less than a one- (1) hour rating. All fire doors shall be equipped with a door closer and may be held open at all times with an electrical magnetic switch that is interconnected to the fire alarm system.

(4) Appliances and Mechanical Equipment. All heating, cooling, ventilation system(s), other mechanical equipment, and appliances shall be installed and maintained in accordance with manufacturer's recommendations.

(A) Use of unvented fuel-fired room heaters, portable electric space heaters, and floor furnaces is not permitted.

(B) If wall heaters are used, they must be installed and approved by the local authority and include adequate guards.

(C) The home's primary heat source shall not be a fireplace.

1. Fireplaces used for decorative purposes shall be installed, operated, and maintained in a safe manner. The use of a wood- or gas-burning fireplace is permitted only if the fireplace is built of fire-brick or metal, enclosed by masonry, has a metal or tempered glass

screen, and is inspected and approved by a local authority with documentation maintained on site.

2. Fireplaces not in compliance with these requirements may be in the home if they are for decorative purposes only, or if they are equipped with decorative-type electric logs or other electric heaters which bear the UL label and are constructed of electrical components complying with and installed in compliance with the NFPA 2017 *National Electrical Code*, NFPA, 1 Batterymarch Park, Quincy, MA 02169-7471, (800) 344-3555, incorporated by reference and available at: <https://www.nfpa.org/NEC/electrical-codes-and-standards>. This rule does not incorporate any subsequent amendments or additions to the standards listed above. This rule does not prohibit programs from complying with the standards set forth in newer editions of the incorporated by reference material listed in this paragraph of this rule.

(D) If the building has elevator(s), the elevator(s) shall be inspected annually by a state-licensed inspector and have a state-issued operating permit from the Division of Fire Safety available for review.

(5) Protection. Smoke stop partition(s) in all programs must comply with the requirements of the Division of Fire Safety and the 2018 NFPA *Life Safety Code 101*, NFPA, 1 Batterymarch Park, Quincy, MA 02169, (617) 770-3000 or 1-800-344-3555, incorporated by reference and available at: www.nfpa.org. This rule does not incorporate any subsequent amendments or additions to the regulations listed above. This rule does not prohibit programs from complying with the regulations set forth in newer editions of the incorporated by reference material listed in this section.

(6) Interior Finish. Interior finish in all programs must comply with requirements of the Division of Fire Safety and the 2018 NFPA *Life Safety Code 101*, NFPA, 1 Batterymarch Park, Quincy, MA 02169, (617) 770-3000 or 1-800-344-3555, incorporated by reference and available at: www.nfpa.org. This rule does not incorporate any subsequent amendments or additions to the regulations listed above. This rule does not prohibit programs from complying with the regulations set forth in newer editions of the incorporated by reference material listed in this section.

AUTHORITY: sections 630.050 and 630.705, RSMo 2016. Original rule filed May 14, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 1—Definitions and Procedures

PROPOSED RESCISSION

9 CSR 40-1.105 Implementation of Licensing Authority for

Certain Day Programs and Community Residential Facilities. This rule defined the types of facilities subject to licensure and the relationship of licensure with community residential facilities and day programs licensed or certified by state agencies.

PURPOSE: The department is rescinding this rule. Types of day programs and community residential facilities subject to licensure by the department or another state agency are included in 9 CSR 40-1.055 Licensing Procedures.

AUTHORITY: sections 630.050 and 630.705, RSMo 1994. Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 2—Rules for All Day Programs and Community Residential Facilities

PROPOSED RESCISSION

9 CSR 40-2.015 Resident and Client Rights. This rule described the rights and responsibilities of individuals served in community residential facilities or day programs as required by section 630.705, RSMo.

PURPOSE: The department is rescinding this rule. Individual rights for individuals served in all community residential programs and day programs are included in 9 CSR 40-1.065 Individual Rights and Responsibilities.

AUTHORITY: sections 630.050, 630.135, 630.168 and 630.705, RSMo 1994. Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed March 14, 1984, effective Aug. 15, 1984. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 2—Rules for All Day Programs and Community Residential Facilities

PROPOSED RESCISSION

9 CSR 40-2.075 Administrative Policies and Procedures. This rule described the administrative requirements and policies and procedures for a community residential facility or day program to be licensed by the department as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. Administrative requirements for all community residential programs and day programs are included in 9 CSR 40-1.060 Program Administration.

AUTHORITY: sections 630.050 and 630.705, RSMo 1994. Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed Aug. 4, 1987, effective Jan. 15, 1988. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 3—Rules for Residential Facilities Licensed by the Division of Aging Serving People Who Are Mentally Ill, Mentally Disordered, Mentally Retarded or Developmentally Disabled

PROPOSED RESCISSION

9 CSR 40-3.115 Admission Criteria. This rule prescribed criteria for admission in all community residential facilities as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. General admission criteria for all community residential programs has been incorporated into 9 CSR 40-1.075 Person-Centered Services.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed July 15, 1985, effective Feb. 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 3—Rules for Residential Facilities Licensed by the Division of Aging Serving People Who Are Mentally Ill, Mentally Disordered, Mentally Retarded or Developmentally Disabled

PROPOSED RESCISSION

9 CSR 40-3.135 Care, Treatment, Habilitation and Rehabilitation. This rule prescribed requirements for services and supports in all community residential facilities as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. General requirements for services and supports for individuals served in all community residential programs are included in 9 CSR 40-1.075 Person-Centered Services.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed July 15, 1985, effective Feb. 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 4—Behavioral Health Community Residential Programs

PROPOSED RULE

9 CSR 40-4.001 Program and Staffing Requirements

PURPOSE: This rule describes the populations served and requirements for services, supports, and staffing in behavioral health community residential programs subject to licensure by the department.

(1) Regulations. Licensed behavioral health community residential programs (hereafter referred to as residential programs) shall comply with 9 CSR 40-1 unless specified otherwise in this rule.

(2) Fire Safety. Psychiatric Individualized Supported Living (PISL) programs shall comply with 9 CSR 40-1.090 Fire Safety and Emergency Preparedness, with modifications as specified—

(A) Subsection (1)(A), Division of Fire Safety inspection is waived;

(B) Subsection (1)(D), evacuation routes do not need to be posted in the home. Documented training and education on safe exit from the home shall be provided for individuals served. Documentation must include dates of training/education and signature of staff providing the training/education; and

(C) Subsection (1)(M), notification and documentation from the local fire authority is waived.

(3) Program Structure. Residential programs provide a high level of services, structure, oversight, and support for adults with serious mental illness who are transitioning from an inpatient psychiatric hospital to the community, or are at risk of returning to inpatient care due to their clinical status or need for increased support. An extensive array of medically necessary services are provided in the individual's natural home in the community to assist with his or her psychiatric symptoms, functional deficits, and problematic behaviors.

(A) Supports and rehabilitation services related to activities of daily living and crisis prevention and intervention must be provided. Rehabilitation services may be available on-site and in the community to promote psychiatric recovery and a reduction in symptoms in order for each individual to progress toward more independent living.

(B) All individuals receiving services/supports must have an individual treatment plan (ITP) developed by staff of the administrative agent or affiliate involved in their care and shall receive services in accordance with 9 CSR 40-1.075 Person-Centered Services.

1. A copy of each individual's current ITP and crisis prevention plan shall be maintained in a manner so they are readily accessible to staff working in the program. Documentation must indicate program staff are knowledgeable about each individual's treatment plan and crisis prevention plan.

(C) Each residential program shall be structured to ensure safety and prevent the individual's return to a more restrictive setting. The type of program is based on individual needs for supervision and oversight, tolerance for interactions with other individuals, and the ability to participate in and benefit from other community-based interventions.

(D) Psychiatric Individualized Supported Living (PISL) is comprised of services and supports provided in a private home for one (1) to four (4) adults and is most appropriate for individuals who—

1. Have intermittent difficulty tolerating other individuals in their immediate living environment; and

2. Require access to an individual bedroom to promote psychiatric wellness and reduce the potential for aggression or other behaviors associated with a risk of re-hospitalization; and/or

3. Have substantial difficulties with activities of daily living and

require around-the-clock observation and oversight; and/or

4. Require daily redirection from staff to avoid behaviors potentially harmful to themselves or others.

A. Each individual served in a PISL shall have a private, single bedroom unless staff of the administrative agent or affiliate provide adequate justification to the department for shared rooms. Single bedrooms must meet requirements for square footage as specified in 9 CSR 40-1.085(5)(A)1.

(E) Intensive Residential Treatment Setting (IRTS) provides service and supports for five (5) to sixteen (16) adults in their natural home and is most appropriate for individuals who—

1. Can tolerate regular interaction with their peers, but have significant difficulties with activities of daily living;

2. May require around-the-clock observation and oversight; and/or

3. Require periodic redirection from staff to avoid behaviors potentially harmful to themselves or others.

A. Each individual served in an IRTS shall have a private, single bedroom unless staff of the administrative agent or affiliate provide adequate justification to the department for shared rooms. Single bedrooms must meet requirements for square footage as specified in 9 CSR 40-1.085 (5)(A)1.

(4) Staffing. Each residential program shall have a director who is responsible for making decisions regarding program operations. The director shall delegate a staff person to act on his/her behalf when unavailable.

(A) Staff providing services and supports must be at least eighteen (18) years of age and have a minimum of a high school diploma or equivalent certificate.

(B) Staff must be systematically trained to provide intensive interventions and supports to reduce the symptoms of mental illness and intervene and redirect individuals in a psychiatric crisis who are exhibiting behaviors potentially dangerous to themselves or others.

(C) Each staff person must have a training plan that identifies specific topics and frequency of refresher training on each topic, including documentation of course completion.

(5) Supervision of Individuals Served. Staff supervision of individuals being served in the program shall be provided in accordance with their assessed needs as documented in the ITP. A system must be in place to ensure each individual is monitored in accordance with his or her ITP. Monitoring shall be documented.

(A) Twenty-four (24) hour protective oversight shall be provided as follows:

1. PISL programs shall have at least one (1) staff person on duty who is dressed and awake twenty-four (24) hours per day, seven (7) days per week; and

2. IRTS shall have at least one (1) staff person on duty during the day and evening shifts for every eight (8) individuals receiving services, and one (1) staff person on duty who is dressed and awake during the night shift for every sixteen (16) individuals served.

(B) Procedures shall be in place for staff to rapidly respond to unauthorized absences of individuals being served in the program.

(C) Procedures shall be in place to maintain adequate staffing when responding to emergent situations to assure the health and safety of individuals being served.

(D) Staff shall be trained on de-escalation and intervention techniques for individuals who may engage in behavior that may be harmful to themselves or others.

(6) Program Supervision. A qualified mental health professional (QMHP) as defined in 9 CSR 40-1.015, shall be on site in PISL and IRTS programs a minimum of eight (8) hours per week to provide supervision, program planning, consultation, treatment planning, and support.

(A) A QMHP shall be available twenty-four (24) hours per day, seven (7) days per week, to intervene in crisis situations that may

occur in the program.

(7) Nursing Services. A licensed RN shall be on site in PISL and IRTS programs a minimum of four (4) hours per week to provide oversight and coordination of nursing and medical protocols and individual needs.

AUTHORITY: sections 630.050 and 630.705, RSMo 2016. Original rule filed May 14, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 4—Rules for Community Residential Facilities
Not Licensed by the Division of Aging and Psychiatric
Group Homes II

PROPOSED RESCISSION

9 CSR 40-4.095 Recordkeeping. This rule prescribed requirements for a uniform system of recordkeeping in all community residential facilities and Psychiatric Group Homes II as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. Requirements for an organized record system in community residential programs are included in 9 CSR 40-1.070 Organized Record System. Psychiatric Group Homes II are referred to as behavioral health community residential programs as specified in 9 CSR 40-4.001.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed March 14, 1984, effective Aug. 15, 1984. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706

E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 4—Rules for Community Residential Facilities
Not Licensed by the Division of Aging and Psychiatric
Group Homes II

PROPOSED RESCISSION

9 CSR 40-4.115 Admission Criteria. This rule prescribed criteria for admission in all community residential facilities except Psychiatric Group Homes II as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. General admission criteria for community residential programs is included in 9 CSR 40-1.075 Person-Centered Services. Specific program requirements for behavioral health community residential programs are included in 9 CSR 40-4.001 which replaces rules for Psychiatric Group Homes II.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed March 14, 1984, effective Aug. 15, 1984. Amended: Filed July 15, 1985, effective Feb. 1, 1986. Amended: Filed Sept. 4, 1985, effective Feb. 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 4—Rules for Community Residential Facilities
Not Licensed by the Division of Aging and Psychiatric
Group Homes II

PROPOSED RESCISSION

9 CSR 40-4.116 Admission Criteria for Psychiatric Group Homes II. This rule prescribed criteria for admission to Psychiatric Group Homes II as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. Psychiatric Group Homes II are referred to as behavioral health community residential programs as specified in 9 CSR 40-4.001. General admission criteria for individuals receiving services in a community residential program is included in 9 CSR 40-1.075 Person-Centered Services.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the **Missouri Register**. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.*

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 4—Rules for Community Residential Facilities
Not Licensed by the Division of Aging and Psychiatric
Group Homes II

PROPOSED RESCISSION

9 CSR 40-4.135 Care, Treatment, Habilitation and Rehabilitation. This rule prescribed requirements for services and supports in all community residential facilities and Psychiatric Group Homes II as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. Service delivery requirements for community residential programs are included in 9 CSR 40-1.075 Person-Centered Services. Specific program and staffing requirements for behavioral health community residential programs are included in 9 CSR 40-4.001 which replaces psychiatric group homes II.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed March 14, 1984, effective Aug. 15, 1984. Amended: Filed July 15, 1985, effective Feb. 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the **Missouri Register**. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.*

Title—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 4—Rules for Community Residential Facilities
Not Licensed by the Division of Aging and Psychiatric
Group Homes II

PROPOSED RESCISSION

9 CSR 40-4.145 Maintenance, Housekeeping and Laundry. This rule prescribed maintenance, housekeeping, and laundry requirements for all community residential facilities and Psychiatric Group Homes II as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. Environmental requirements for all community residential programs are included in 9 CSR 40-1.085. Psychiatric Group Homes II are referred to as behavioral health community residential programs as specified in 9 CSR 40-4.001.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed March 14, 1984, effective Aug. 15, 1984. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the **Missouri Register**. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.*

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 4—Rules for Community Residential Facilities
Not Licensed by the Division of Aging and Psychiatric
Group Homes II

PROPOSED RESCISSION

9 CSR 40-4.155 Fire Safety. This rule prescribed fire safety requirements for community residential facilities and Psychiatric Group Homes II, as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. Fire safety requirements for all community residential programs are included in 9 CSR 40-1.090 Fire Safety and Emergency Preparedness. Psychiatric Group Homes II are referred to as behavioral health community residential programs as specified in 9 CSR 40-4.001.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed March 14, 1984, effective Aug. 15, 1984. Amended: Filed July 15, 1985, effective Feb. 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 6—Family Living Arrangements**

PROPOSED RULE

9 CSR 40-6.001 Provider Requirements and Program Structure

PURPOSE: This rule specifies the licensing and program requirements for family living arrangements (FLA).

(1) Regulations. In addition to the requirements of this rule, providers of family living arrangements (FLA) shall comply with 9 CSR 40-1 unless specified otherwise in this rule.

(2) Licensure Requirements. Applicants for licensure to provide services and supports in a FLA must have documentation of ownership of their home or, if renting, documentation of a current lease agreement and approval from the landlord to provide family living arrangements.

(A) Each applicant must—

1. Be twenty-five (25) years of age or older;
2. Have at least a high school diploma or equivalent certificate;
3. Successfully complete all background screenings required by the department, including out-of-state background screenings and/or reference checks, if he or she has resided in Missouri for less than five (5) years;
4. Submit to a home study, an interview and selection process, and licensure by the department; and
5. Have safe, reliable transportation and appropriate insurance as required by Missouri laws.

(B) Providers must complete specialized training required by the department. Training must be documented as specified in 9 CSR 40-1.060(3)(E).

(3) Fire Safety. FLA providers shall comply with 9 CSR 40-1.090 Fire Safety and Emergency Preparedness, with modifications as specified:

(A) Subsection (1)(A), Division of Fire Safety inspection is waived;

(B) Subsection (1)(D), evacuation routes do not need to be posted in the home. Documented training and education on safe exit from the home shall be provided for individuals served. Training and education must be documented, including dates and signature of provider; and

(C) Subsection (1)(M), notification and documentation from the local fire authority is waived.

(4) Program Structure. FLA providers will be trained, supervised,

and supported by staff of the referring/administering agency. FLA providers may serve one (1) to three (3) individuals in the home.

(A) FLA providers have a primary role in the therapeutic interventions and supports provided to the individual(s) served and will be responsible for implementing the individual treatment plan (ITP) or individual support plan (ISP).

(B) Placement, duration, and intensity of services and supports will be based on admission criteria established by the department.

(C) Individuals served shall have the opportunity to participate in daily family and community life, including services and activities such as religious affiliation (if desired), physical activities, shopping, and volunteering in accordance with their ITP or ISP.

(D) Supervision of individuals served shall be provided as specified in their ITP or ISP.

(E) Services and supports provided must be documented as required by the department.

(F) Providers shall maintain contact with staff of the administering/referring agency and the individual's parents/guardian and other family members/natural supports as specified in the ITP or ISP and as required by the department.

(G) Provider(s) shall participate in pre-placement meetings and ongoing meetings with the individual's support team or treatment team, including development of the ITP or ISP and updating the plan as required by the department and/or referring/administering agency.

(H) A copy of each individual's current ITP or ISP and crisis prevention plan or safety crisis plan, as applicable, shall be maintained in a manner so they are readily accessible.

(I) Staff from the referring/administering agency will regularly monitor each individual's progress and provide adjunctive services in accordance with his or her ITP or ISP.

AUTHORITY: sections 630.050 and 630.705, RSMo 2016. Original rule filed May 14, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, or by courier within thirty (30) days after publication in the Missouri Register. If to be hand delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 6—Rules for Family Living Arrangements**

PROPOSED RESCISSION

9 CSR 40-6.015 Physical Plant. This rule prescribed the physical plant requirements for community residential facilities serving fewer than four residents as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. Physical plant requirements for community residential programs serving fewer than four (4) individuals, including family living arrangements, are included in 9 CSR 40-1.085 Environment.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original

rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed March 14, 1984, effective Aug. 15, 1984. Amended: Filed July 15, 1985, effective Feb. 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH Division 40—Licensing Rules Chapter 6—Rules for Family Living Arrangements

PROPOSED RESCISSION

9 CSR 40-6.035 General Medical and Health Care. This rule prescribed general medical and health care requirements for community residential facilities with fewer than four residents as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. General medical and health care requirements for community residential programs serving fewer than four (4) individuals, including family living arrangements, are included in 9 CSR 40-1.075 Person-Centered Services.

AUTHORITY: sections 630.050 and 630.215, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed March 14, 1984, effective Aug. 15, 1984. Amended: Filed July 15, 1985, effective Feb. 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH Division 40—Licensing Rules Chapter 6—Rules for Family Living Arrangements

PROPOSED RESCISSION

9 CSR 40-6.055 Food Services. This rule prescribed requirements for food services in community residential facilities having fewer than four residents as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. Food service requirements for community residential programs serving fewer than four individuals, including family living arrangements, are included in 9 CSR 40-1.080 Dietary Services.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH Division 40—Licensing Rules Chapter 6—Rules for Family Living Arrangements

PROPOSED RESCISSION

9 CSR 40-6.075 Adequate Staff. This rule prescribed requirements for personnel of a community residential facility serving fewer than four residents as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. Specific staff requirements for family living arrangements are included in 9 CSR 40-6.001. General staff requirements for all licensed programs are included in 9 CSR 40-1.060 Program Administration.

AUTHORITY: sections 630.050 and 630.215, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed July 15, 1985, effective Feb. 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 7—Rules for Semi-Independent Living Arrangements**

PROPOSED RESCISSION

9 CSR 40-7.015 Physical Plant. This rule prescribed physical plant requirements for semi-independent living arrangements as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. The department no longer issues a license for semi-independent living arrangements.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed March 14, 1984, effective Aug. 15, 1984. Amended: Filed July 15, 1985, effective Feb. 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 7—Rules for Semi-Independent Living Arrangements**

PROPOSED RESCISSION

9 CSR 40-7.035 General Medical and Health Care. This rule prescribed the general medical and health care requirements for semi-independent living arrangements.

PURPOSE: The department is rescinding this rule. The department no longer issues a license for semi-independent living arrangements.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. For intervening his-

tory, please consult the *Code of State Regulations*. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 7—Rules for Semi-Independent Living Arrangements**

PROPOSED RESCISSION

9 CSR 40-7.055 Food Services. This rule prescribed requirements for food services in semi-independent living arrangements as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. The department no longer issues a license for semi-independent living arrangements.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 7—Rules for Semi-Independent Living Arrangements**

PROPOSED RESCISSION

9 CSR 40-7.075 Adequate Staff. This rule prescribed requirements

for personnel employed in a semi-independent living arrangement as required by section 630.710, RSMo.

PURPOSE: *The department is rescinding this rule. The department no longer issues a license for semi-independent living arrangements.*

AUTHORITY: *sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed July 15, 1985, effective Feb. 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.*

PUBLIC COST: *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the **Missouri Register**. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.*

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 8—Rules for Psychiatric Group Homes

PROPOSED RESCISSION

9 CSR 40-8.075 Adequate Staff. This rule prescribed requirements for personnel employed in a psychiatric group home as required by section 630.710, RSMo.

PURPOSE: *The department is rescinding this rule. Staffing requirements for behavioral health community residential programs are included in 9 CSR 40-1.060 and 9 CSR 40-4.001.*

AUTHORITY: *sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed July 15, 1985, effective Feb. 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed Dec. 29, 1995, effective March 30, 1996. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.*

PUBLIC COST: *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the **Missouri Register**. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706*

E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 9—Rules for Day Programs Serving People Who Are Mentally Retarded and Developmentally Disabled

PROPOSED RESCISSION

9 CSR 40-9.015 Physical Plant Requirements. This rule prescribed physical plant requirements in day programs as required by section 630.710, RSMo.

PURPOSE: *The department is rescinding this rule. Physical plant requirements for all day programs are included in 9 CSR 40-1.085 Environment.*

AUTHORITY: *sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed Feb. 4, 1986, effective July 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.*

PUBLIC COST: *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

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Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 9—Rules for Day Programs Serving People Who Are Mentally Retarded and Developmentally Disabled

PROPOSED RESCISSION

9 CSR 40-9.035 General Medical and Health Care. This rule prescribed general medical and health care requirements for day programs as required by section 630.710, RSMo.

PURPOSE: *The department is rescinding this rule. Medical and health care requirements for all day programs are included in 9 CSR 40-1.075, Person-Centered Services. Specific service delivery requirements for day programs are included in 9 CSR 40-9.075 Program and Staffing Requirements.*

AUTHORITY: *sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed Feb. 4, 1986, effective July 1, 1986. Amended: Filed Aug. 4, 1987, effective Nov. 15, 1987. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.*

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH

Division 40—Licensing Rules

Chapter 9—Rules for Day Programs Serving People Who Are Mentally Retarded and Developmentally Disabled

PROPOSED RESCISSION

9 CSR 40-9.055 Food Services. This rule prescribed food service requirements for day programs as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. Food services requirements for all day programs are included in 9 CSR 40-1.080 Dietary Services.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed Feb. 4, 1986, effective July 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH

Division 40—Licensing Rules

Chapter 9—[Rules for] Day Programs [Serving People Who Are Mentally Retarded and Developmentally Disabled] Serving Individuals with Mental Illness and Intellectual or Developmental Disabilities

PROPOSED AMENDMENT

9 CSR 40-9.075 [Adequate Staff] Program and Staffing Require-

ments. The department is amending the chapter title, rule title, purpose, adding new sections (1)-(3), and deleting old sections (1)-(16).

PURPOSE: This amendment updates program and staffing requirements for day programs serving individuals with mental illness, intellectual disabilities, and developmental disabilities. This rule replaces 9 CSR 40-2 and 9 CSR 40-10 which are being rescinded. General requirements applicable to all day programs are included in 9 CSR 40-1.

PURPOSE: This rule [prescribes requirements for personnel employed in a day program as required by section 630.710, RSMo.] specifies the program and staffing requirements for day programs serving individuals with mental illness, intellectual disabilities, and developmental disabilities (IDD) that are subject to licensure by the department.

[(1) Each day program shall have a chief administrative officer referred to as the head of the day program in these rules.

(2) The head of the day program shall report any change in location, ownership, management or administration to the department within five (5) days.

(3) All personnel, including physical therapists, occupational therapists and volunteers, who have frequent (regularly scheduled at least once per week) and direct contact with clients, shall have a tuberculin skin test or chest X-ray and a statement from their physician stating they have been screened for contagious diseases, at the time of employment and annually after that. The physician's statement shall indicate the specific communicable diseases for which the person has been tested.

(4) Any employee or volunteer diagnosed or suspected of having a contagious or infectious disease shall not work or be in the day program until the time a written statement is obtained from a physician that the disease is no longer contagious or is found to be noninfectious.

(5) The program shall give each employee a written job description.

(6) The program shall keep job descriptions for all positions on file.

(7) Each day program shall have, as a minimum, a daily direct care staff-to-client ratio as follows, unless program needs or client mix, require otherwise:

(A) Level 1. A staff-to-client ratio of one to twelve (1:12) for clients who have advanced daily living skills and are independent in self-care, who participate in many activities and whose problems do not get out of hand;

(B) Level 2. A staff-to-client ratio of one to eight (1:8) for clients who have some advanced daily living skills but may require minimal supervision in self-care skills, who may have a physical handicap requiring some physical assistance and who may have intermittent socially inappropriate behaviors which require some intervention;

(C) Level 3. A staff-to-client ratio of one to six (1:6) for clients who require some verbal or physical assistance in self-care skills or who have intermittent serious behavior problems (assaultive or self-abusive);

(D) Level 4. A staff-to-client ratio of one to four (1:4) for clients who require nearly total physical care, frequent intervention, or both, due to serious behaviors (assaultive or self-abusive). All clients under age six (6) are considered level 4; and

(E) Level 5. A staff-to-client ratio of one to one (1:1) for clients who require individualized intervention due to serious behaviors (assaultive or self-injurious), in-home service setting or other unique circumstance noted in the individual habilitation plan. Services at level 5 are developmental or habilitative in nature and do not substantially duplicate parent/infant intervention or other services outlined in this section under levels 1, 2, 3 and 4.

(8) The head of the program shall designate a person capable to act for him/her when unavailable.

(9) The program shall have sufficient backup staff to provide services to clients and to meet licensing staffing requirements at all times.

(10) No clients shall be present at the day program unless at least one (1) staff person is also present.

(11) The day program shall provide for orientation and training as follows:

(A) New employees and volunteers shall receive orientation to acquaint them with the philosophy, organization, program, practices and goals of the program;

(B) Each employee shall receive a minimum of six (6) hours of training annually. The training shall include the use of physical restraint and training in cardiopulmonary resuscitation (CPR) and first-aid. The training and periodic reviews, shall be in accordance with the guidelines of the American Red Cross, the American Heart Association, the National Safety Council, or other nationally recognized training organization. Training review must be consistent with the guidelines of the certifying authority. At least one (1) staff person with these skills will be on duty at all times and in close proximity to the clients. Based on the configuration of the building and the number of clients, more than one (1) trained staff may be required in the program; and

(C) The day program shall provide documentation of this training.

(12) All day program staff shall be knowledgeable about the program's policies and procedures.

(13) The day program staff, or other personnel, shall not be under the influence of alcohol or illegal drugs while on the premises. The day program staff, or other personnel, shall not be in a state of impaired ability because of medication use.

(14) All staff and volunteers responsible for direct care of clients shall be eighteen (18) years of age or older. Volunteers as young as sixteen (16) years of age may assist staff but shall work under staff supervision and shall not be responsible for direct care.

(15) All staff administering medications shall have successfully completed a course on medication administration. This training shall be updated every two (2) years. The initial training and biennial update shall—

(A) Be approved by the regional center;

(B) Be offered by an instructor who is a licensed practical nurse (LPN) certified by the Division of Aging as an instructor, a registered nurse (RN), a pharmacist or a physician;

(C) Not apply to LPNs, RNs or certified medication technicians with lifetime certificates; and

(D) Be documented in the recipient's personnel file.

(16) The course to update training in medication administra-

tion shall address at least the following:

(A) Review of Basics.

1. Medication ordering and storage.

2. Medication administration.

A. Use of generic drugs.

B. How to pour, chart, administer and document.

C. Information and techniques specific to the following: inhalers, eye drops, topical medications, insulin injections and suppositories.

D. Infection control.

3. Individual rights and refusal of medications and treatment;

(B) Issues specific to the facility/program as indicated by the needs of the clients, and the medications and treatments currently being administered.

1. Emergency response.

2. Medication allergies.

3. Corrective actions based on problems identified by the staff, the trainees or issues identified by regulatory and accrediting bodies, professional consultants or by any other authoritative source; and

(C) Updates on new medications or new procedures.]

(1) Licensed day programs shall comply with 9 CSR 40-1 unless specified otherwise in this rule.

(2) Day programs shall provide structured activities, services, and supports to assist individuals in developing personal support systems, social skills, community living skills, basic self-care skills, and pre-vocational skills that promote community inclusion, integration, and independence.

(A) Activities and services/supports shall be based on the individual support plan (ISP), individual treatment plan (ITP), or care plan of each individual being served as specified in 9 CSR 40-1.075(1).

(B) Activities and services/supports may take place during the day, evening, weekend, or a combination of these, to effectively address the needs of individuals served. Activities and services/supports are not limited to the program site to provide individuals with opportunities for off-site training and rehabilitation in realistic community settings.

(C) Transportation to/from the program site to various locations in the community shall be provided for individuals served to promote participation and involvement in outside activities and services/supports. Permission forms for off-site activities, signed by the individual served or their parent/guardian, as applicable, shall be maintained on site.

1. Program staff are responsible for the care, safety, and supervision of individuals served when they are transported from the operating site to other locations in the community, and staff ratios shall be maintained at the operating site.

(3) All direct care staff must be eighteen (18) years of age or older and have a high school diploma or equivalent certificate.

(A) Staffing requirements for day programs serving adults with mental illness—

1. The director must be a Qualified Mental Health Professional (QMHP) with two (2) years of relevant work experience;

2. At a minimum, a daily direct care staff ratio of one (1) staff person for each sixteen (16) individuals served (1:16) shall be maintained, unless program needs or the needs of individuals being served require otherwise; and

3. At least one (1) staff person must be on duty at all times when individuals served are present at the program.

(B) Staffing requirements for day programs serving children and youth with serious emotional disturbances—

1. The director must be a QMHP with two (2) years of experience working with children and youth;

2. One (1) full-time mental health professional must be available during the provision of services;

3. Direct care staffing ratios shall be based on the ages and needs of the children/youth being served.

A. At a minimum, a daily staffing ratio of one (1) staff to four (4) individuals (1:4) shall be maintained for children/youth between the ages of three (3) and eleven (11). A daily staffing ratio of one (1) staff to six (6) individuals (1:6) shall be maintained for children/youth between the ages of twelve (12) and seventeen (17);

4. Based on the needs of children/youth being served, other staff shall include:

- A. Registered nurse;
- B. Occupational therapist;
- C. Recreational therapist;
- D. Rehabilitation therapist;
- E. Community support specialist;
- F. Family assistance worker; and

5. At least one (1) staff person must be on duty at all times when individuals served are present at the program.

(C) Staffing requirements for day programs serving individuals with IDD shall be as follows, unless program needs or the needs of individuals being served require otherwise:

1. For children and youth between the ages of three (3) and eleven (11), the daily staffing ratio shall be one (1) staff to four (4) individuals (1:4);

2. For children/youth between the ages of twelve (12) and seventeen (17), the daily staffing ratio shall be one (1) staff to six (6) individuals (1:6); and

3. For adults, the daily staffing ratio shall be a minimum of one (1) staff for each sixteen (16) individuals served.

AUTHORITY: sections 630.050 and 630.705, RSMo [(1994)] 2016. Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed Feb. 4, 1986, effective July 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Amended: Filed May 14, 2020.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH

Division 40—Licensing Rules

Chapter 9—Rules for Day Programs Serving People Who Are Mentally Retarded and Developmentally Disabled

PROPOSED RESCISSION

9 CSR 40-9.095 Recordkeeping. This rule prescribed requirements for a uniform system of recordkeeping in day programs as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. Requirements for an organized record system in all day programs are included in 9 CSR 40-1.070 Organized Record System.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed Feb. 4, 1986, effective July 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Title 9—DEPARTMENT OF MENTAL HEALTH

Division 40—Licensing Rules

Chapter 9—Rules for Day Programs Serving People Who Are Mentally Retarded and Developmentally Disabled

PROPOSED RESCISSION

9 CSR 40-9.115 Admission Criteria. This rule prescribed criteria for admission to day programs as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. General admission requirements for all day programs are included in 9 CSR 40-1.075 Person-Centered Services. Specific requirements for day programs are included in 9 CSR 40-9.075 Program and Staffing Requirements.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed Feb. 4, 1986, effective July 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

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E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 9—Rules for Day Programs Serving People Who Are Mentally Retarded and Developmentally Disabled

PROPOSED RESCISSION

9 CSR 40-9.135 Care, Treatment, Habilitation and Rehabilitation. This rule prescribed requirements for client care, treatment and habilitation in day programs as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. General service delivery requirements for all day programs are included in 9 CSR 40-1.075 Person-Centered Services. Specific service delivery requirements for day programs are included in 9 CSR 40-9.075 Program and Staffing Requirements.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed Feb. 4, 1986, effective July 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 9—Rules for Day Programs Serving People Who Are Mentally Retarded and Developmentally Disabled

PROPOSED RESCISSION

9 CSR 40-9.145 Maintenance, Housekeeping and Laundry. This rule prescribed maintenance, housekeeping, and laundry requirements in day programs as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. Maintenance requirements for all day programs are included in 9 CSR 40-1.085 Environment.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed Feb. 4, 1986, effective July 1, 1986. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

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Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 9—Rules for Day Programs Serving People Who Are Mentally Retarded and Developmentally Disabled

PROPOSED RESCISSION

9 CSR 40-9.155 Fire Safety. This rule prescribed fire safety requirements for all day programs as required by section 630.710, RSMo.

PURPOSE: The department is rescinding this rule. Fire safety requirements for all day programs are included in 9 CSR 40-1.090 Fire Safety and Emergency Preparedness.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Original rule filed Oct. 13, 1983, effective Jan. 15, 1984. Amended: Filed Feb. 4, 1986, effective July 1, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

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Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 10—Rules for Day Programs Serving People Who Are Mentally Ill or Mentally Disordered

PROPOSED RESCISSION

9 CSR 40-10.015 Physical Plant Requirements. This rule prescribed the physical plant requirements for day programs serving

people with mental illness.

PURPOSE: The department is rescinding this rule. Physical plant requirements for day programs are included in 9 CSR 40-1.085 Environment.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Emergency rule filed June 17, 1986, effective July 1, 1986, expired Oct. 29, 1986. Original rule filed June 17, 1986, effective Nov. 13, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

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Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 10—Rules for Day Programs Serving People
Who Are Mentally Ill or Mentally Disordered

PROPOSED RESCISSION

9 CSR 40-10.035 General Medical and Health Care. This rule prescribed the general medical and health care requirements for day programs serving people with mental illness.

PURPOSE: The department is rescinding this rule. General medical and health care requirements for day programs are included in 9 CSR 40-1.075 Person-Centered Services. Specific service delivery requirements for day programs are included in 9 CSR 40-9.075 Program and Staffing Requirements.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Emergency rule filed June 17, 1986, effective July 1, 1986, expired Oct. 29, 1986. Original rule filed June 17, 1986, effective Nov. 13, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

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overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 10—Rules for Day Programs Serving People
Who Are Mentally Ill or Mentally Disordered

PROPOSED RESCISSION

9 CSR 40-10.055 Food Services. This rule prescribed food service requirements for day programs serving people with mental illness.

PURPOSE: The department is rescinding this rule. Food service requirements for day programs are included in 9 CSR 40-1.080 Dietary Service.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Emergency rule filed June 17, 1986, effective July 1, 1986, expired Oct. 29, 1986. Original rule filed June 17, 1986, effective Nov. 13, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 10—Rules for Day Programs Serving People
Who Are Mentally Ill or Mentally Disordered

PROPOSED RESCISSION

9 CSR 40-10.075 Adequate Staff. This rule prescribed the requirements for personnel employed in day programs serving people with mental illness.

PURPOSE: The department is rescinding this rule. General staffing requirements for day programs are included in 9 CSR 40-1.060 Program Administration. 9 CSR 40-9.075 Program and Staffing Requirements includes specific requirements for day programs.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Emergency rule filed June 17, 1986, effective July 1, 1986, expired Oct. 29, 1986. Original rule filed June 17, 1986, effective Nov. 13, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990.

Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 10—Rules for Day Programs Serving People
Who Are Mentally Ill or Mentally Disordered**

PROPOSED RESCISSION

9 CSR 40-10.095 Recordkeeping. This rule prescribed requirements for a uniform record system for day programs serving people with mental illness.

PURPOSE: The department is rescinding this rule. Requirements for maintaining records in day programs are included in 9 CSR 40-1.070 Organized Record System.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Emergency rule filed June 17, 1986, effective July 1, 1986, expired Oct. 29, 1986. Original rule filed June 17, 1986, effective Nov. 13, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 10—Rules for Day Programs Serving People
Who Are Mentally Ill or Mentally Disordered**

PROPOSED RESCISSION

9 CSR 40-10.115 Admission Criteria. This rule prescribed criteria

for admission to day programs serving people with mental illness.

PURPOSE: The department is rescinding this rule. General admission requirements for day programs are included in 9 CSR 40-1.075 Person-Centered Services. 9 CSR 40-9.075 Program and Staffing Requirements includes specific requirements for day programs.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Emergency rule filed June 17, 1986, effective July 1, 1986, expired Oct. 29, 1986. Original rule filed June 17, 1986, effective Nov. 13, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 10—Rules for Day Programs Serving People
Who Are Mentally Ill or Mentally Disordered**

PROPOSED RESCISSION

9 CSR 40-10.135 Care, Treatment and Rehabilitation. This rule prescribed requirements for client care, treatment, and rehabilitation in day programs serving people with mental illness.

PURPOSE: The department is rescinding this rule. General requirements for services and supports for individuals served in day programs are included in 9 CSR 40-1.075 Person-Centered Services. Specific service delivery requirements for day programs are included in 9 CSR 40-9.075 Program and Staffing Requirements.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Emergency rule filed June 17, 1986, effective July 1, 1986, expired Oct. 29, 1986. Original rule filed June 17, 1986, effective Nov. 13, 1986. Amended: Filed Aug. 18, 1987, effective Nov. 15, 1987. Amended: Filed Jan. 2, 1990, effective June 11, 1990. Amended: Filed April 1, 1993, effective Dec. 9, 1993. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail

Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 10—Rules for Day Programs Serving People
Who Are Mentally Ill or Mentally Disordered

PROPOSED RESCISSION

9 CSR 40-10.145 Maintenance, Housekeeping and Laundry. This rule prescribed maintenance, housekeeping, and laundry requirements for day programs serving people with mental illness.

PURPOSE: The department is rescinding this rule. Environmental requirements for day programs, including housekeeping, are included in 9 CSR 40-1.085 Environment.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Emergency rule filed June 17, 1986, effective July 1, 1986, expired Oct. 29, 1986. Original rule filed June 17, 1986, effective Nov. 13, 1986. Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 40—Licensing Rules
Chapter 10—Rules for Day Programs Serving People
Who Are Mentally Ill or Mentally Disordered

PROPOSED RESCISSION

9 CSR 40-10.155 Fire Safety. This rule prescribed fire safety requirements for day programs serving people with mental illness.

PURPOSE: The department is rescinding this rule. Fire safety requirements for day programs are included in 9 CSR 40-1.090 Fire Safety and Emergency Preparedness.

AUTHORITY: sections 630.050 and 630.705, RSMo (1994). Emergency rule filed June 17, 1986, effective July 1, 1986, expired Oct. 29, 1986. Original rule filed June 17, 1986, effective Nov. 13, 1986. Amended: Filed Jan. 2, 1990, effective June 11, 1990.

Amended: Filed July 17, 1995, effective March 30, 1996. Rescinded: Filed May 14, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or opposition to this proposed rescission by writing to Gail Vasterling, General Counsel, Department of Mental Health, PO Box 687, 1706 E. Elm Street, Jefferson City, MO 65102. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication in the *Missouri Register*. If to be hand-delivered, comments must be brought to the Department of Mental Health at 1706 E. Elm Street, Jefferson City, Missouri. No public hearing is scheduled.

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 90—Missouri 911 Service Board
Chapter 1—Board Operations

PROPOSED RULE

11 CSR 90-1.010 Overview

PURPOSE: This rule provides a brief overview of the board.

(1) The Missouri 911 Service Board represents all Missouri 911 entities and jurisdictions, and is striving toward the immediate access to emergency services for all citizens in the state of Missouri. The board is charged with assisting and advising the state regarding 911 services; aiding in the collection and dissemination of information relating to use of a universal emergency telephone number; reviewing existing and proposed legislation and recommending changes; recommending primary and secondary answering points on technical and operational standards for 911 services; recommending model systems to be considered in preparing a 911 service plan; providing requested mediation services to political subdivisions involved in 911 jurisdictional disputes; applying for and receiving grants; conducting an annual survey of public answering points in Missouri to evaluate potential for improved services, coordination, and feasibility of consolidation; developing a plan and timeline of target dates for the testing, implementation, and operation of a next generation 911 system throughout Missouri, administering and authorizing grants and loans from the Missouri 911 service trust fund to improve 911 services, especially in the most underserved areas; and setting the percentage rate of the prepaid wireless emergency telephone service charge remitted to a county or city under section 190.406.3(5), RSMo to reimburse expenditures for implementing and operating 911 systems and for answering and dispatching emergency calls.

(2) The board is funded by prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund pursuant to section 190.460, RSMo.

AUTHORITY: section 650.325, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. Original rule filed May 7, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities

more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 90—Missouri 911 Service Board
Chapter 1—Board Operations**

PROPOSED RULE

11 CSR 90-1.020 Organization and Administration

PURPOSE: This rule describes the organization and administration of the board, and is necessary to comply with the requirements of section 536.023, RSMo.

(1) The executive director of board shall be the chief public spokesperson for the board in all dealings with the media.

(2) The executive director shall be responsible for the daily operation of the board's business as delegated by the board; provided, however, that any party aggrieved by any action of the director, by petition to the chairman, may request that action be reviewed as an agenda item in a board meeting.

(3) The executive director shall have the power to appoint, fire, and discipline board employees and consultants as delegated by the board.

(4) The executive director, the executive director's designee, or such other individual as may be designated by the board shall serve as the board's custodian of records. The board's custodian of records shall maintain the board's records as required by law.

(5) Except as otherwise provided in the board's regulations, by statute or directed by the board, all materials to be submitted with the board or requests for information or documents shall be sent by mail to: Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102, or by electronic mail to: admin@missouri911.org.

AUTHORITY: section 536.023, RSMo 2016. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. Original rule filed May 7, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 90—Missouri 911 Service Board
Chapter 1—Board Operations**

PROPOSED RULE

11 CSR 90-1.030 Code of Ethics

PURPOSE: The board is charged with assisting and advising the state in ensuring the availability, implementation, and enhancement of a statewide emergency telephone number common to all jurisdictions. The board and its staff are held to the highest ethical and professional standards and must conduct all business in a manner which maintains the public trust. Therefore, the following Code of Ethics prescribes measures to prohibit practices that possess a potential of wrong-doing or the appearance of impropriety.

(1) Standard of Compliance for Board and its Staff. Each member of the board and all board staff are directed to read and comply with this Code of Ethics and with Executive Order 92-04 dated January 31, 1992. For the purposes of this Code of Ethics, the term staff shall include the board's executive director, staff, and state employees who provide day-to-day services to the board. The board shall be responsible for the enforcement of applicable statutes, the provisions of the Executive Order, and this rule by the suspension or discharge, other disciplinary action, or other action as the board deems appropriate.

(2) Compensation. No member or staff of the board shall solicit anything of value, nor shall any member or staff of the commission accept anything of value, in addition to that compensation received from the board or Missouri in their official capacity, intended to influence the member or staff's official duties or in exchange for having exercised the member's or staff's official powers or performed the member's or staff's official duties in a particular manner. For the purposes of this rule, grant or payment of a thing of value to another person on behalf of the member or staff shall be considered grant or payment to the member or staff. Nothing in this rule shall preclude the acceptance of any award, presentation, honor, or memorabilia presented to the member or staff of the board in recognition of his/her performance in his/her official capacity and not designed to influence any particular action taken by the member or staff of the board.

(3) Confidentiality. No information furnished to the board by a corporation, organization, or person that the board deems to be a closed record under Chapter 610, RSMo, shall be open to public inspection or made public except on order of the board.

(4) Use of Confidential Information. No member or staff of the board shall use or disclose confidential information gained in the member's or staff's official position or activities to further the member's or staff's own financial or political interests or the financial or political interests of anyone else.

(5) Duty to Maintain Confidentiality. A former member or staff of the commission having information that s/he knows is confidential governmental information or knew was confidential governmental information at the time the member or staff acquired the information about a person or matter subject to the jurisdiction of the board while the member or staff was associated with the board, may not disclose such information without the consent of the board granted before such disclosure and after complete disclosure to the board of the information sought to be disclosed, all persons to whom the information is to be disclosed, and the reasons for such disclosure. Confidential information means information that has been obtained under governmental authority and which, at the time this rule is applied, the government or the board is prohibited by law from disclosing to the public or has a legal privilege not to disclose, and which is not otherwise available to the public.

AUTHORITY: section 650.325, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. Original rule filed May 7, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the

aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 90—Missouri 911 Service Board
Chapter 1—Board Operations**

PROPOSED RULE

11 CSR 90-1.040 Board Meetings

PURPOSE: This rule establishes the procedures for meetings of the board.

(1) The chair or the chair's designee shall preside over each meeting of the board. The board shall elect officers from its membership as it determines, including a chair, vice-chair, secretary, and treasurer and form committees as it deems appropriate to handle designated functions of the board.

(2) Minutes of each meeting, open or closed, including special meetings, shall be prepared in written form and shall be subject to the approval of the board.

(3) The board may vote to delegate to its chair limited authority to take certain actions without a prior vote of the board. Any action taken by the chair pursuant to such delegation of authority shall have the full force and effect of a majority vote of the board, but must be ratified by a subsequent majority vote of the board at the next public meeting. If such action is not ratified by the board as provided herein, such action shall be cancelled, withdrawn, or rescinded as of the date of the public board meeting at which the ratification failed. Such delegation of board authority to the chair shall expire twelve (12) months after its adoption by a majority of the board, unless rescinded or renewed by the board prior to its expiration.

AUTHORITY: section 650.325, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. Original rule filed May 7, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 90—Missouri 911 Service Board
Chapter 1—Board Operations**

PROPOSED RULE

11 CSR 90-1.050 Addressing Board

PURPOSE: This rule establishes procedures for the public to address the board.

(1) The board will allot time for public comment at each open meeting. The board reserves the right to determine the amount of time allotted at each open meeting for public comment and to limit the amount of time per person for public comment.

(2) No person interested in a case, matter, or application pending before the board shall improperly attempt to influence the judgment of the board by undertaking, directly or indirectly, to pressure or influence the board, regarding the case, matter, or application.

AUTHORITY: section 650.325, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. Original rule filed May 7, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 90—Missouri 911 Service Board
Chapter 2—911 Financial Assistance Program**

PROPOSED RULE

11 CSR 90-2.010 Definitions

PURPOSE: This rule establishes definitions for terms used in this chapter.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) As used in this chapter, the following terms shall mean:

(A) "911 services authority," any county or city governing body or elected emergency services board to which the board remits pre-paid wireless emergency telephone service charges deposited in the fund under section 190.460.3(5), RSMo;

(B) "911 service level," level of a Public Safety Answering Point's (PSAPs) 911 services. There are four (4) levels:

1. Basic—No 911 equipment;
2. Enhanced—Wireline only;
3. Phase 1—Wireless number only; and
4. Start Phase II—Latitude/Longitude, Text-to- 911;

(C) "Adverse action," an action taken by the board to deny, reject, reduce, suspend, or terminate a grant or loan application, financial assistance under an approved application or project agreement, or request to materially amend a project agreement or extend the project completion date;

(D) "Application window," a period set by the board for the submission of applications for grants and loans available pursuant to section 650.335, RSMo;

(E) "Award priority areas," attributes of loan or grant applications that warrant priority in allocating financial assistance from the fund due to the potential to most greatly improve 911 services statewide, especially in underserved areas, including the following:

1. Including one (1) or more PSAPs located in a jurisdiction with a 911 service level of basic;

2. Consolidating two (2) or more PSAPs;

3. Consolidating 911 services within a defined region of the state;

4. Moving one (1) or more PSAPs up one (1) or more 911 service levels;

5. Meeting the NENA i3 Solution Standard for Emergency Services IP Network;

6. Becoming NG9-1-1 compatible;

7. Purchasing 911 technology and equipment, such as 911 trunking equipment, workstations with 911 answering equipment, software, dispatch systems, and radio systems, that is currently non-existent and is not being used to replace existing equipment; and

8. Adding Text-to-911; defined as is the ability to send a text message to reach 911 emergency call takers from a mobile phone or device;

(F) "Board," the Missouri 911 service board defined in section 650.320, RSMo and established by section 650.325, RSMo;

(G) "Eligible applicants" or "Applicants," counties and cities that sections 650.330 and 655.335, RSMo authorize to submit applications to the board for grants and loans to finance all or a portion of the costs incurred by their 911 services authorities in implementing a 911 communications service project;

(H) "Eligible uses," expenditures that may be paid using financial assistance from the fund, including, but not limited to, capital expenses such as building, facility, and equipment costs; operating expenses such as research, development, and administrative costs; expenses associated with training; and matching funds for federal grants;

(I) "Fund," the Missouri 911 service trust fund established by section 190.420, RSMo;

(J) "Grant," a distribution from the fund that is not required to be repaid;

(K) "Incomplete application," an application received by the board that is not submitted in accordance with the application instructions, regulations, or statutes;

(L) "Loan," a distribution from the fund that must be repaid with interest;

(M) "NENA i3 Solution Standard," the NENA Detailed Functional and Interface Standard for the NENA i3 Solution, NENA-STA-010.2-2016 (originally 08-003), September 10, 2016, published by the National Emergency Number Association, 1700 Diagonal Rd., Suite 500, Alexandria, VA 22314 (www.nena.org) and available at http://www.nena.org/resource/resmgr/standards/NENA-STA-010.2_i3_Architectu.pdf and on the board's website. This standard is incorporated herein by reference and does not include any later amendments or additions;

(N) "Next Generation 911" or "NG9-1-1," a system comprised of managed IP-based networks, gateways, functional elements, and databases that augment or replicate present day E9-1-1 features and functions and provide new capabilities. NG9-1-1 is designed to provide access to emergency services from all sources, and to provide multimedia data capabilities for PSAPs and other emergency service organizations;

(O) "Project Agreement," an agreement governing the board's award of a financial assistance for an 911 services authority's 911 communications service project; and

(P) "PSAPs," public safety answering points as defined in sections 190.400 and 650.320, RSMo.

(2) As used in this chapter, all terms defined in sections 650.320 and 190.400, RSMo shall have meaning prescribed therein.

AUTHORITY: sections 650.330 and 650.335, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. Original rule filed May 7, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 90—Missouri 911 Service Board Chapter 2—911 Financial Assistance Program

PROPOSED RULE

11 CSR 90-2.020 Application Requirements and Submission Procedure

PURPOSE: This rule prescribes the content of and procedure for applying for financial assistance in the form of grants and loans from the Missouri 911 service trust fund, the proceeds of which are to be used to finance a portion of the costs incurred in implementing projects to improve 911 services.

(1) Application Window. All application windows shall be established by the board as it deems appropriate and be published on its website, <https://www.missouri911.org>. The board reserves the right to extend published application windows as it deems appropriate. For each application window, the board shall exercise its discretion to determine the total amount of financial assistance available from the fund, allocate the available amounts between grants and loans, establish any percent of match in local funds required for applications seeking grants, and determine the maximum amount of financial assistance available per application. The board will publish this information on its website before the start of each application window.

(2) Application Submission Procedure.

(A) Deadline. Applications for all application windows shall be submitted to the board by the deadline established and published by the board. Applications may be submitted by electronic mail or certified or registered mail. Electronic mail shall be sent to admin@missouri911.org and certified and registered mail shall be sent to "Missouri 911 Service Board" at PO Box 2126, Jefferson City, MO 65102. The board presently lacks the ability to receive applications by hand delivery because it does not maintain a physical office. The board prefers to receive electronic copies of applications by electronic mail.

(B) Format. Applicants must provide one (1) electronic version of their applications, including the accompanying documents.

(C) Joint Applications. Applications submitted by two (2) or more eligible applicants must contain all information required for each applicant and its 911 services authority and a memorandum of understanding between all eligible applicants and their 911 services authorities. The board encourages joint applications.

(D) Rejection Criteria. The board will reject applications that are untimely. The board may extend the application deadline for up to seventy-two (72) hours. Any extension will apply to all applications. The board will notify applicants and their 911 services authorities in writing regarding applications it deems incomplete and allow fourteen (14) calendar days for the submission of information necessary to complete such applications. The board may reject applications that remain incomplete for longer than fourteen (14) days after notice is sent.

(3) General Requirements.

(A) Who may apply. Applications may be submitted by eligible applicants singly, or in combination with one (1) or more other eligible applicants.

(B) Signature and Certification. All applications shall be prepared by the 911 services authority that will incur some or all the costs to implement the 911 communications service project in the application. All applications will be signed by an authorized representative of each applicant and an authorized member of its 911 services authority. By signing the application—

1. Applicants authorize the board to transmit directly to their 911 services authorities any portion of an award of financial assistance that is for costs to be incurred by their 911 services authorities in implementing approved projects;

2. Applicants and 911 services authorities certify that any financial assistance obtained from the fund will be expended only for purposes specified in the approved application or the project agreement.

3. 911 services authorities certify that they, on behalf of their eligible applicants, will repay any portion of a loan made that is transmitted directly to them by the board, with interest, and will annually budget an amount sufficient to make any payments required by the board under section 650.335, RSMo. Eligible applicants make the same certification with respect to any portion of a loan transmitted to them for costs to be incurred by them in implementing approved projects.

(C) Funding Limits and Sources. The maximum amount of grants, loans, or a combination of grants and loans that may be requested in a single application, as set by the board for each application window, shall be the same regardless of the number of eligible applicants included in an application.

(D) Project Costs Disclosure. Applications shall include all necessary costs, including those of any third party, required for the full implementation of the project. For all projects in which not all project costs will be incurred and paid by the applicants' 911 services authorities, the applications also shall identify all other sources that will incur or pay project costs, the specific project costs to be incurred or paid by each source, and the total project costs to be incurred or paid by each source.

(E) Limit on Number of Applications. The board reserves the right to limit the number of applications that may be submitted per applicant per application window. The limit applies to joint applications.

(F) Project Completion Deadline. Applications must demonstrate that the proposed project is able to be completed no later than one year after the board first remits any financial assistance from the fund for project implementation.

(G) Grounds for Rejection or Disapproval. The board may reject applications signed by applicants or 911 services authorities owing money to the fund under a loan agreement previously approved by the board or that have not yet completed a project that was previously approved by the board.

(4) Application Contents. Applications shall contain a Project Narrative and a Technical Assistance Report that includes a proposed budget.

(A) Project Narrative Requirements. The project narrative shall include the following information for all applicants and their 911 services authorities signing the application:

1. Identifying and contact information. The names, addresses,

titles, locations addresses, telephone numbers, and email addresses of the eligible applicants' governing bodies and the 911 services authorities' primary contact individuals;

2. Constituent information. The number of constituents to be served by the entire project, the 911 services authorities' 911 levels as of the date of the application and upon project completion;

3. Funding request information. State a preference for a grant, loan, or combination of the two (2), the total amount of financial assistance requested, and the amount of each type of financial assistance requested (only if both types are requested). The board reserves the right to extend an offer for either type of financial assistance or a combination of the two regardless of the type of funding requested and to less than the requested amount;

4. Funding Purpose. Identify the statutory purposes for which the requested financial assistance will be used—

A. Implementation of 911 services in counties of the state where services do not exist or to improve existing 911 systems;

B. Promotion of consolidation of public safety answering points (PSAPs), where appropriate;

C. Mapping or addressing all county locations;

D. Ensuring primary access and texting abilities to 911 services for disabled residents;

E. Implementation of initial emergency medical dispatch services, including prearrival instructions in counties where those services are not offered as of the date the application is submitted; and

F. Development and implementation of an emergency services internet protocol network that can be shared by all public safety agencies.

5. Personnel information. State the name and title of key personnel performing the project for which financial assistance is sought. For any vacant job positions, provide a job description instead of a name.

6. Service description. Provide a detailed description of the services to be provided for each purpose identified in 4 (A)-(F) of this rule for which financial assistance is requested. The description must include the following information:

A. A summary of the activities to occur and the key personnel responsible for each activity;

B. A description of how the application addresses one (1) or more of the Award Priority Areas;

C. A work plan and timeline that identifies activities, and proposed start and completion dates;

D. A plan for the 911 services authorities to report progress and expenditures to the board. At a minimum, the plan must require the 911 services authorities to submit to the board progress and expenditure reports on a quarterly basis and a final project report and financial reconciliation no later than thirty (30) calendar days after project completion;

E. A brief description of how the activities identified in the application will be sustained by the 911 services authorities beyond the completion date of the project.

(B) Technical Assistance Report. The technical assistance report shall contain—

1. A detailed budget and justification for the total cost of the funded project, including the following:

A. Capital expenses incurred by the 911 services authorities, the applicants, or any other source for the purchase of materials, equipment and supplies;

B. Operating expenses incurred by the 911 services authorities, the applicants, or any other source for personnel, administration, and operations;

C. Training expenses, incurred by the 911 services authorities, the applicants, or any other source for programs, facilities, travel, and trainers; and

D. Other direct costs incurred by the 911 services authorities, the applicants, or any other source for the funded project.

2. The suggested format for the budget is a spreadsheet that contains or is accompanied by notes describing how amounts of

expenses incurred by the 911 services authorities, the applicants, or any other source align with the activity timeline in the narrative proposal;

3. Financial records and other documents demonstrating that the applicants, through their 911 services authorities or otherwise, have the ability to operate and maintain ongoing 911 services after project completion;

4. Written certification, such as a resolution, that the governing bodies of the applicants have approved the applicants entering into a project agreement with the board if the application is approved and a copy of the approvals. Applicants indicating that approval of their governing bodies is not required must submit proof acceptable to the board;

5. For applications requesting a loan, financial records, and other documents or information demonstrating that the applicants, through their 911 services authorities or otherwise, are providing at least a fifty percent (50%) match of the amount of loan sought and that the total project cost will be recovered during the loan repayment period; and

6. For applications requesting a grant, financial records, and other documents or information demonstrating that the applicants, through their 911 services authorities or otherwise, are providing at least the minimum percent match of the amount of grant sought as is required by the board for the application window.

AUTHORITY: sections 650.330 and 650.335, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. Original rule filed May 7, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 90—Missouri 911 Service Board Chapter 2—911 Financial Assistance Program

PROPOSED RULE

11 CSR 90-2.030 Application Review and Decision

PURPOSE: This rule establishes the process the board will use to review and make decisions regarding applications for financial assistance in the form of grants and loans from the Missouri 911 service trust fund.

(1) Application Review. The board, or its designated members or appointees will review all applications. Applications meeting the minimum requirements will be scored and ranked based on the scoring to aid the board in deciding which applications to approve, and the amount and type of financial assistance to award approved applicants. If more than one (1) application receives the same score, then the tied applications will be ranked in the order determined to best accomplish the purposes listed in section 650.330.1(16), RSMo.

(2) Application Scoring.

(A) Project Narrative. The project narrative shall be scored as follows:

1. One (1) point shall be awarded for each portion required by 11 CSR 90-2.020(4)(A)1., 2., 3., and 5. that is determined to contain adequate information.

2. One (1) point shall be awarded for each separate purpose listed in 11 CSR 90-2.020(4)(A)4.A.-F. that is determined to be adequately identified and described.

3. Points for portions of the project narrative required by 11 CSR 90-2.020(4)(A)6. shall be awarded as follows:

A. For the portion required by 11 CSR 90-2.020(4)(A)6.A., three (3) points if the application adequately describes specific, feasible activities and identifies parties responsible for completing the activities. Fewer than three (3) points may be awarded for answers that are determined to be partially adequate;

B. For the portion required by 11 CSR 90-2.020(4)(A)6.B., one (1) point for including in the application one (1) or more public safety answering points (PSAPs) located in a jurisdiction with a current 911 level of basic for up to five (5) points, one (1) point for consolidating a PSAPs for up to five (5) points, one (1) point for consolidating 911 services within a region, one (1) point for moving one (1) or more PSAPs up one 911 service levels for up to five (5) points, and one (1) point for meeting the National Emergency Number Association (NENA i3) Solution Standard for Emergency Services IP Network;

C. For the portion required by 11 CSR 90-2.020(4)(A)6.C., one (1) point for providing a work plan and timeline that adequately identifies activities, and proposed start and completion dates;

D. For the portion required by 11 CSR 90-2.020(4)(A)6.D., one (1) point for providing an adequate plan for reporting progress and expenditures to the board;

E. For the portion required by 11 CSR 90-2.020(4)(A)6.E., one (1) point for adequately describing how the activities identified in the application will be sustained beyond the completion date of the funded project. One (1) additional point may be awarded if the application shows above average confidence of sustainability and a second additional point may be awarded if the application shows high confidence of sustainability.

(B) Technical Assistance Report Scoring. The technical assistance report required by 11 CSR 90-2.020(4)(B) shall be scored one (1) to three (3) points depending on the board's or its reviewer's determination as to the level of reasonableness and feasibility of the budget and the adequacy of the justification for the total project cost.

(3) Application Decisions.

(A) The board will make all final decisions regarding applications. The board will strive to approve or disapprove applications within sixty (60) calendar days after the close of each application window, and decide the amount and type of financial assistance to award each approved applicant and transmit to its 911 services authority for project implementation.

(B) The board will disapprove all applications that it determines do not meet the minimum requirements.

(C) The board will make final decisions on applications meeting the minimum requirements on a case-by-case basis based on the board's determination, in its sole discretion, of which projects best promote the purposes of the fund set forth in section 650.330.4(16)(a)-(f), RSMo. In situations where the board offers a loan when a grant was requested, the board reserves the right to request any additional documents or information needed to ascertain if the match requirement is met.

(D) The board or its designee will notify each applicant and its 911 services authority in writing of the board's decision regarding the application. If the board disapproves an application, the writing will advise of the protest procedure in 11 CSR 90-2.050.

AUTHORITY: sections 650.330 and 650.335, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. Original rule filed May 7, 2020.

PUBLIC COST: *This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 90—Missouri 911 Service Board
Chapter 2—911 Financial Assistance Program**

PROPOSED RULE

11 CSR 90-2.040 Project Administration

PURPOSE: *This rule establishes the process the board will use to administer approved 911 communications service projects.*

(1) Project Agreements. Approved applicants and their 911 services authorities must enter into project agreements with the board. The project agreements will contain the terms and conditions of the board's award of financial assistance. For projects involving a loan, the project agreements will contain the interest rate, repayment amount, number of payments, and a repayment schedule determined by the board based on the total project costs, amount of the loan, amount of match in local funds, award priority areas addressed by the project, and purposes listed in section 650.330.1(16), RSMo to be accomplished. The project agreements will require each eligible applicant's 911 services authority to agree to repay on behalf of the eligible applicant, any portion of the loan transmitted directly to them or used to pay costs incurred on their behalf.

(2) Fund Disbursement. The board will not disburse any financial assistance for any project until a project agreement has been fully executed and it has received a written certification of approval, such as a resolution, of the project agreement from the applicants' respective governing bodies or the applicants have demonstrated to the board's satisfaction that no such approval is required.

(3) Project Agreement Change Requests. 911 services authorities must obtain written approval of the board or its designee before making any material changes to an approved project.

(A) 911 services authorities may request approval of the board or its designee for a material change to an approved project by submitting a written request by electronic mail to the electronic mail address in the project agreement or by certified or registered mail addressed to "Missouri 911 Service Board" at PO Box 2126, Jefferson City 65102.

(B) Requests must include a detailed explanation of the circumstances warranting the requested change.

(C) The board or its designee, in its sole discretion, will determine all change requests on a case by case basis and advise the requestor in writing of the board's decision. If a change request is denied, the writing will advise of the protest procedure in 11 CSR 90-1.050.

(4) Extensions of Time. 911 services authorities may request extensions of the project completion deadline in their project agreement by submitting a written request by electronic mail to the electronic mail address in the project agreement or by certified or registered mail addressed to "Missouri 911 Service Board" at PO Box 2126,

Jefferson City 65102.

(A) Requests must include a detailed explanation of the circumstances warranting extension of the project completion deadline.

(B) Requests for extension must be received by the board at least forty-five (45) calendar days before the expiration of the current project completion deadline.

(C) The board will not consider any request for extension of a project completion deadline that exceeds six (6) months.

(D) The board or its designee, in its sole discretion, will determine all requests for extensions on a case-by-case basis and will grant a timely submitted first request for extension when the requestor demonstrates an inability to meet its project completion deadline despite a good faith effort to do so. Second and subsequent requests for extension will be viewed unfavorably and will only be granted when the board determines that substantial justification or extreme circumstances exist.

(E) The board or its designee will notify the requestor of its decision in writing. If a request for extension is denied, the writing will advise of the protest procedure in 11 CSR 90-1.050.

(5) Audits. The board will conduct audits as it deems appropriate. Applicants and 911 services authorities shall provide any information requested by the board and access to the project site.

(6) Funding Change or Termination. The board reserves the right to reduce, suspend, or terminate the provision of financial assistance before or after execution of the project agreement due to a lack of funds, misrepresentations on the application, a failure to comply with the project agreement or applicable laws, or other conduct deemed inappropriate by the board.

AUTHORITY: *sections 650.330 and 650.335, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. Original rule filed May 7, 2020.*

PUBLIC COST: *This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 90—Missouri 911 Service Board
Chapter 2—911 Financial Assistance Program**

PROPOSED RULE

11 CSR 90-2.050 Protests

PURPOSE: *This rule establishes a procedure to protest adverse actions taken by the board.*

(1) Protest Procedure. Applicants and 911 services authorities may protest any adverse action taken by the board related to their applications (assuming the applicants are eligible applicants) or a project agreement signed by them by submitting a protest by certified or registered mail addressed to "Missouri 911 Services Board" at PO Box 2126, Jefferson City 65102, or by electronic mail addressed to admin@missouri911.org.

(A) Protest Deadline. Protests must be received by the board within fourteen (14) calendar days after the date of adverse action. If the fourteenth day falls on a Saturday, Sunday, or state holiday, the period will extend to the next state business day.

(B) Protest Requirements. All protests shall be in writing and include the following information:

1. Name, address, and phone number of the protesting applicants and 911 services authorities;
2. Signature of an authorized representative of the protesting applicants and 911 services authorities;
3. Detailed statement of the grounds for the protest;
4. Supporting exhibits, evidence, or documents for the protest;
5. The board will deny a protest that does not contain all required information, is untimely or fails to establish standing to protest;
6. All protests meeting the above requirements will be reviewed by the board;
7. The board will only issue a determination on the issues asserted in the protest; and
8. The board's determination will be in writing, will set forth the facts relied upon, an analysis of the protest, and a conclusion that the protest will either be sustained or denied in whole or part, and will be mailed to the protesting applicants and 911 services authorities by registered or certified mail.

A. If the protest is sustained, remedies include a modification or reversal of the protested adverse action.

B. If the protest is denied, the board will take no further action on the protest.

AUTHORITY: sections 650.330 and 650.335, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. Original rule filed May 7, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 90—Missouri 911 Service Board Chapter 3—Funding Rates

PROPOSED RULE

11 CSR 90-3.010 Funding Rates

PURPOSE: This rule establishes rates of prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund that will be paid under section 190.460, RSMo.

(1) Forty percent (40%) of the prepaid wireless emergency telephone service charges deposited in the Missouri 911 service trust fund, less the deductions authorized by section 190.460.3(4), RSMo shall be remitted to each county without a charter form of government in direct proportion to the amount of charges collected in that county, if any.

(2) Sixty-five percent (65%) of the prepaid wireless emergency tele-

phone service charges deposited in the Missouri 911 service trust fund, less the deductions authorized by section 190.460.3(4), RSMo shall be remitted to each county other than counties without a charter form of government in direct proportion to the amount of charges collected in that county, if any.

AUTHORITY: sections 190.460.3 and 650.330.6, RSMo Supp. 2019. Emergency rule filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. Original rule filed May 7, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri 911 Service Board, PO Box 2126, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 35—Children's Division Chapter 60—Licensing of Foster Family Homes

PROPOSED RULE

13 CSR 35-60.120 Criminal Background Check Screening due to Coronavirus-Related Closures

PURPOSE: This proposed rule will allow for an alternate criminal history background check process and timeframe for foster parent applicants due to coronavirus-related closures of fingerprinting locations.

(1) Notwithstanding any other regulations to the contrary, beginning April 17, 2020, any applicant, any household member age seventeen (17) and older, and any child less than seventeen (17) who has been certified as an adult for the commission of a crime, or has been convicted or pled guilty or nolo contendere to any crime, shall register with the Family Care Safety Registry (FCSR) and submit signed release forms and fingerprints for the purpose of obtaining background screening for child abuse or neglect, criminal, and circuit court records.

(A) Fingerprints shall be sent to the Missouri State Highway Patrol for criminal background checks. Subject to geographic availability, as determined by the Children's Division, fingerprinting shall be completed prior to issuance of a license.

(B) In the event fingerprinting is not available due to closures of fingerprinting locations in the applicant's geographic region, a name-based criminal background check utilizing the individual's name, date of birth, social security number, sex, and race is satisfactory for licensure provided that fingerprints are submitted to the Missouri State Highway Patrol for positive identification as soon as possible, but no later than 180 calendar days from the date of the preliminary name-based background check, or 90 calendar days from the expiration of the state's emergency declaration, whichever occurs sooner.

(2) The failure to follow all requirements and timeframes for criminal background checks, including fingerprints, shall be grounds for license revocation in accordance with 13 CSR 35-60.090.

AUTHORITY: sections 207.020, 210.486, 210.506, and 660.017, RSMo 2016, and section 210.487, RSMo Supp. 2019. Emergency rule

filed May 6, 2020, effective May 21, 2020, expires Feb. 25, 2021. Original rule filed May 6, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 40—Family Support Division Chapter 2—Income Maintenance

PROPOSED RESCISSION

13 CSR 40-2.210 State Emergency Assistance Program. This rule established the eligibility rules for the state emergency assistance program in 1980, as part of the Aid to Families with Dependent Children (AFDC) program.

PURPOSE: This rule is being rescinded because the Family Support Division no longer administers this program. The Emergency Assistance Program (EAP) was repealed by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

AUTHORITY: section 207.020, RSMo 1986 Emergency rule filed Dec. 17, 1979, effective Dec. 27, 1979, expired April 10, 1980. Original rule filed Dec. 17, 1979, effective April 11, 1980. For intervening history, please consult the *Code of State Regulations*. Rescinded: Filed May 13, 2020.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 70—MO HealthNet Division Chapter 45—Hearing Aid Program

PROPOSED AMENDMENT

13 CSR 70-45.010 Hearing Aid Program. The MO HealthNet Division is amending sections (1)-(3), (5), and (13)-(16), deleting section (12), and renumbering as necessary.

PURPOSE: This amendment clarifies participants that are eligible to

receive hearing aid services and removes criteria that are no longer applicable or are outdated.

(1) Administration. The Hearing Aid Program shall be administered by the Department of Social Services, MO HealthNet Division. The services and items covered and not covered, the program limitations, and the maximum allowable fees for all covered services shall be determined by the Department of Social Services, MO HealthNet Division through the hearing aid manual *[and hearing aid bulletins,]* which *[are]* is incorporated by reference and made a part of this rule, as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at dss.mo.gov/mhd, *[November 15, 2013]* **May 13, 2020**. This rule does not incorporate any subsequent amendments or additions.

(2) *[Persons]* **Participants** Eligible. The MO HealthNet Program pays for approved MO HealthNet services for hearing aid services when furnished within the provider's scope of practice to MO HealthNet eligible *[needy children]* **participants under the age of 21 or [persons] participants** receiving MO HealthNet under a category of assistance for pregnant women *[or the]*, blind **participants, or skilled nursing facility residents**. The participant must be eligible on the date the service is furnished. Participants may have specific limitations for hearing aid services according to the type of assistance for which they have been determined eligible. It is the provider's responsibility to determine the coverage benefits for a participant based on their type of assistance as outlined in the provider program manual. The provider shall ascertain the patient's MO HealthNet and managed care or other lock-in status before any service is performed. The participant's eligibility shall be verified in accordance with methodology outlined in the *[provider program]* **hearing aid manual**.

(3) Prior Authorization of Hearing Aids. *[Effective for service dates November 1, 1989 and thereafter, a]* All hearing aids and related services *[will]* require prior authorization with the exception of hearing evaluation for the purpose of prescribing a hearing aid, post-fitting evaluations, post-fitting adjustments, repairs to hearing aids no longer under warranty, and special tests for ruling out retro-cochlear involvement. **All hearing aid program services provided to participants in nursing facilities require prior authorization.**

(5) Hearing Loss (HL) Requirement. A participant's pure-tone average (PTA) must be thirty decibels (30dB) HL or greater in the better ear to qualify for a hearing aid. The PTA is the average air-conduction threshold for five hundred (500), one thousand (1,000), and two thousand (2,000) Hertz (Hz) measured with an earphone. Word recognition must be tested with a **minimum** of twenty-five (25) *[or fifty (50) item]* phonetically balanced word lists.

[[12] Exception to Audiometric Criteria. If, despite speech discrimination less than forty percent (40%) or PTA threshold less than 30dB HL, there are special circumstances that would justify the need and benefit of a hearing aid, prior authorization may be granted.]

[[13]](12) Replacement Hearing Aids. Prior authorization may be granted for a second hearing aid within four (4) years if the first hearing aid was lost, destroyed, or ceased to function effectively and cannot be repaired.

[[14]](13) Hearing Aid Repairs. MO HealthNet *[will cover]* covers necessary repairs to any eligible participant's hearing aid that is no longer under warranty. The warranty period on new **hearing** aids or repairs will be for one (1) year from the date the hearing aid is dispensed. The methods of reimbursement for repairs are as follows:

(A) Out-of-shop Repairs. Necessary repairs made out-of-shop, where the **hearing** aid must be sent out to the manufacturer or

repair lab, will be reimbursed at twenty dollars (\$20) plus the invoiced cost of the repair. The twenty dollars (\$20) covers the provider's cost for postage and processing. Included also is any postage for returning the **hearing** aid to the provider, any insurance fee charged and a six- (6-) month warranty; and

(B) In-shop Repairs. Necessary repairs made in-shop will be reimbursed at the provider's cost for parts plus a reasonable charge for labor. The state consultant will determine the reasonable charge for labor. Repairs will be considered as in-shop repairs for—

1. Any repair made in the provider's office;
2. Any repair made in a provider-owned and/or operated repair or manufacturing lab; or
3. Any repair made by a provider who is employed by or affiliated with another provider who owns or operates a repair or manufacturing lab.

[(15)](14) Post-fitting Adjustments. A maximum of three (3) post-fitting adjustments or hearing aid repairs or any combination totaling three (3) are covered in a twelve- (12-) month period. Minor adjustments and repairs such as the following must be billed as a post-fitting adjustment:

- (A) Reprogramming or adjusting the frequency response of the **hearing** aid;
- (B) Modifying an earmold;
- (C) Checking that the ear, earmold, and tubing are not occluded with ear wax;
- (D) Removing of ear wax from the earmold and tubing;
- (E) Venting earmold or closing vent;
- (F) Adjusting maximum power output;
- (G) Re instructing the patient in the use and care of the **hearing** aid;
- (H) Changing microphone filters or receivers;
- (I) Conducting hearing retests;
- (J) Evaluating the electroacoustic hearing aid; or
- (K) Cleaning the hearing aid.

[(16)](15) Basic Program Limitations. Benefits under the hearing aid program are limited by the following:

- (A) A participant is entitled to one (1) new hearing aid and related services (testing, earmold, fitting, dispensing, and post-fitting evaluation) per four (4) years;
- (B) Backup or spare hearing aids are non-covered regardless of when the first hearing aid was dispensed;
- (C) Any hearing aid for the purpose of binaural amplification must be prescribed by an otolaryngologist, otologist or otorhinolaryngologist;
- (D) All repairs for hearing aids must include a six (6)-month warranty;
- (E) MO HealthNet will not reimburse for repairs to a hearing aid that is five (5) years of age or older; and
- (F) A new hearing aid will not be purchased within six (6) months of the repair of an old hearing aid.

(16) Records Retention. The MO HealthNet Division may impose sanctions against a provider for failing to make available, and disclosing to the MO HealthNet agency or its authorized agents, all records relating to services provided to MO HealthNet participants or records related to MO HealthNet payments, whether or not the records are comingled with non-MO HealthNet records in compliance with 13 CSR 70-3.030. Providers must retain these records for six (6) years from the date of service. Fiscal and medical records coincide with and fully document services billed to the MO HealthNet agency. Providers must furnish or make the records available for inspection or audit by the Department of Social Services or its representative upon request. Failure to furnish, reveal, or retain adequate documentation for services billed to the MO HealthNet program, as specified above, is a violation of this regulation.

AUTHORITY: sections [208.152,] 208.153, [and] 208.201, and 660.017, RSMo [Supp. 2013] 2016, and section 208.152, RSMo Supp. 2019. This rule was previously filed as 13 CSR 40-81.120. Emergency rule filed June 1, 1979, effective June 11, 1979, expired Sept. 13, 1979. Original rule filed June 1, 1979, effective Sept. 14, 1979. For intervening history, please consult the *Code of State Regulations*. Amended: Filed May 13, 2020.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 20—DEPARTMENT OF COMMERCE AND INSURANCE

Division 2220—State Board of Pharmacy

Chapter 3—Negative Generic Drug Formulary

PROPOSED AMENDMENT

20 CSR 2220-3.040 Return and Reuse of Drugs and Devices. The board is amending section (3).

PURPOSE: The board is amending section (3) of this rule to address return and reuse of medication to an automated filling system.

(3) Pharmacists and pharmacies may return to stock prescriptions that have not been received by **or delivered to** the patient and shall delete the dispensing from the pharmacy's records and reverse the claim with the third party payor, if applicable. In order for a product to be returned to stock, it must have been stored at all times at the manufacturer's labeled storage requirements. *[The drug]*

(A) Except as otherwise authorized by subsection (3)(B), all drugs returned to stock that are not in the original manufacturer container must be maintained in the patient container with the dispensing date, prescription number, and name of drug visible. The expiration date of the drug shall become the lesser of one (1) year from the dispensing date on the label or the manufacturer's original expiration date, if known.

(B) Return-to-stock medication may be returned to an automated filling system unit, cell, or cartridge containing the same medication, if—

1. The prescription/medication order is returned to the automated filling system that originally dispensed it;
2. A pharmacist verifies the return-to-stock drug is properly stocked and loaded in the automated filling system;
3. The expiration date for all drugs in the unit, cell, or cartridge where medication is returned must become the shortest expiration of any drug contained in the same unit, cell, or cartridge, including, any return-to-stock medication; and
4. Drugs from different manufacturers may not be commingled in the same unit, cell, or cartridge.

AUTHORITY: section 338.280, RSMo [2000] 2016. This rule originally filed as 4 CSR 220-3.040. Original rule filed Dec. 12, 1983, effective May 11, 1984. For intervening history, please consult the *Code of State Regulations*. Amended: Filed May 13, 2020.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Pharmacy, PO Box 625, 3605 Missouri Boulevard, Jefferson City, MO 65102, by facsimile at (573) 526-3464, or via email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this rule in the **Missouri Register**. No public hearing is scheduled.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE
Division 2250—Missouri Real Estate Commission
Chapter 5—Fees**

PROPOSED AMENDMENT

20 CSR 2250-5.020 Application and License Fees. The commission is amending sections (2) and (3), deleting section (4), and renumbering as necessary.

PURPOSE: This amendment adjusts the initial licensing fees and the renewal fees for non-resident real estate applicants and licensees.

- (2) The following fees shall be paid for original issuance:
- [(D) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation* \$ 150
 - and
 - (E) Nonresident Salesperson* \$ 100]
- (3) The following fees shall be paid for renewal of licenses:
- [(E) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation* \$ 150
 - and
 - (F) Nonresident Salesperson and Inactive Salesperson* \$ 100]
- [(4) Effective April 1, 2008, the following fees shall be paid for the 2008 renewal of licenses expiring June 30, 2008 and September 30, 2008:*
- (A) Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer or Broker-Salesperson* \$ 10
 - (B) Salesperson or Inactive Salesperson* \$ 10
 - (C) Partnership, Association, Corporation or Professional Corporation* \$ 10
 - (D) Delinquent Fee* \$ 50
 - (per month or partial month elapsed since date of expiration not to exceed a maximum delinquent fee)* \$200

- (E) Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation* \$ 10

and

- (F) Nonresident Salesperson and Inactive Salesperson* \$ 10]

[(5)](4) The following fees shall be paid for the appropriate transactions:

- (A) Transfer/Status Change* \$50
- (B) Replacement of a Lost, Destroyed, or Stolen License* \$25
- (C) Certification of Licensure* \$10
- and
- (D) Professional Corporation Name Approval Fee* \$10

AUTHORITY: sections 339.030, 339.040, 339.045, 339.050, 339.060, 339.070, 339.090 [and 339.120], 339.125, 339.170, and 339.850, RSMo [Supp. 2007] 2016, and section 339.120, RSMo Supp. 2019. This rule originally filed as 4 CSR 250-5.020. Original rule filed Jan. 16, 1979, effective April 12, 1979. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 12, 2020.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions five hundred and one thousand five hundred eighty dollars (\$501,580) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will save private entities approximately five hundred and one thousand five hundred eighty dollars (\$501,580) biennially for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Real Estate Commission, PO Box 1339, Jefferson City, MO 65102, by facsimile at 573-751-2777, or via email at realestate@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Commerce and Insurance
Division 22250 - Missouri Real Estate Commission
Chapter 5 - Fees
Proposed Amendment to 20 CSR 2250-5.020 - Application and License Fees

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Loss of Revenue	
Missouri Real Estate Commission		\$501,580
	Total Loss of Revenue Biennially for the Life of the Rule	\$501,580

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The total loss of revenue is based on the cost savings to private entities reflected in the Private Fiscal Note filed with this rule.
2. The board utilizes a rolling five-year financial analysis process to evaluate its fund balance, establish fee structure, and assess budgetary needs. The five-year analysis is based on the projected revenue, expenses, and number of licensees. Based on recently filed litigation, the board elected to reduce nonresident fees to the same level of resident fees.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Commerce and Insurance

Division 22250 - Missouri Real Estate Commission

Chapter 5 - Fees

Proposed Amendment to 20 CSR 2250-5.020 - Application and License Fees

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated savings for the life of the rule by affected entities:
348	Original Issue License Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation (Application Fee Decrease @ \$70)	\$24,360
958	Nonresident Salesperson Original License (Application Fee Decrease @ \$60)	\$57,480
2,053	Biennial Renewal Nonresident Broker, Inactive Broker, Broker-Partner, Broker-Associate, Broker-Officer, Broker-Salesperson, Partnership, Association, Corporation or Professional Corporation (Renewal Fee Decrease @ \$100)	\$205,300
3,574	Biennial Renewal Nonresident Salesperson (Renewal Fee Decrease @ \$60)	\$214,440
Estimated Biennial Savings for the Life of the Rule		\$501,580

III. WORKSHEET

See Table Above

IV. ASSUMPTION

1. The above figures are based on FY20 and FY21 estimates.
2. This fiscal note shows the number of nonresident applicants and licensees expected to apply and renew biennially.
3. It is anticipated that the total fiscal savings will occur beginning in FY20, may vary with inflation, and is expected to increase at the rate projected by the Legislative Oversight Committee.

**Title 20—DEPARTMENT OF COMMERCE AND
INSURANCE
Division 2263—State Committee for Social Workers
Chapter 1—General Rules**

PROPOSED AMENDMENT

20 CSR 2263-1.035 Fees. The committee is amending section (1).

PURPOSE: This committee is amending fees and adding a duplicate license fee.

(1) The following fees are established by the committee and are payable in the form of a cashier's check, personal check, or money order:

- | | |
|--|---------------------------|
| (A) Application/Initial License Fee | \$ 70.00 |
| 1. October–January (two (2)-year license) | \$ 60.00 |
| 2. February–May (one and one-half (1 1/2)-year license) | \$ 45.00 |
| 3. June–September (one (1)-year license) | \$ 30.00 |
| (B) Registration of Supervision Fee [(This is an initial one-time fee)] | \$ 25.00 |
| (C) Two- (2-)/[-] Year License Renewal Fee | \$ [58.00]/65.00 |
| (D) Delinquent Fee for Failure to Obtain a License or Timely Renew a License | \$ [58.00]/65.00 |
| (E) Restoration of Lapsed License Fee | \$ [117.00]/130.00 |
| (G) Reciprocity Application Fee | \$ [60.00]/75.00 |
| (J) Duplicate License Fee | \$ 10.00 |

*AUTHORITY: sections 337.612 and 337.627, RSMo Supp. [2009] 2019. This rule originally filed as 4 CSR 263-1.035. Original rule filed Jan. 20, 1999, effective July 30, 1999. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed May 14, 2020, effective May 29, 2020, expires Feb. 25, 2021. Amended: Filed May 14, 2020.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities fifty-four thousand one hundred eighty-four dollars (\$54,184) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Committee for Social Workers, Tom Reichard, Executive Director, PO Box 1335, Jefferson City, MO 65102, by fax at (573) 526-3489 or via email at lcs@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Commerce and Insurance
Division 2263 - State Committee for Social Workers
Chapter 1 - Fees
Proposed Amendment to 20 CSR 2263-1.035 - Fees

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated costs for the life of the rule by affected entities:
155	Social Workers (Application Fee Increase @ \$10)	\$1,550
285	Social Workers (Application Fee Increase @ \$25)	\$7,125
285	Social Workers (Application Fee Increase @ \$40)	\$11,400
3,400	Social Workers (Renewal Fee Increase @ \$7)	\$23,800
70	Social Workers (Delinquent Renewal Fee Increase @ \$7)	\$490
38	Social Workers (Restoration Fee Increase @ \$13)	\$494
175	Registration of Supervision (Fee @ \$25)	\$4,375
250	Social Workers - Reciprocity (Application Fee Increase @ \$15)	\$3,750
120	Duplicate License Fee (Fee @ \$10)	\$1,200
	Estimated Annual Costs for the Life of the Rule	\$54,184

III. WORKSHEET

See Table Above

IV. ASSUMPTION

1. The above figures are based on FY20 and FY21 estimates.
2. The committee has a split renewal where some licensees renew in odd numbered years and some in even numbered years. This fiscal note shows the number of licensees expected to apply and renew annually.
3. The committee is eliminating the graduated fee schedule. All applicants will pay the same fee.
4. It is anticipated that the total fiscal costs will occur beginning in FY20, may vary with inflation, and is expected to increase at the rate projected by the Legislative Oversight Committee.